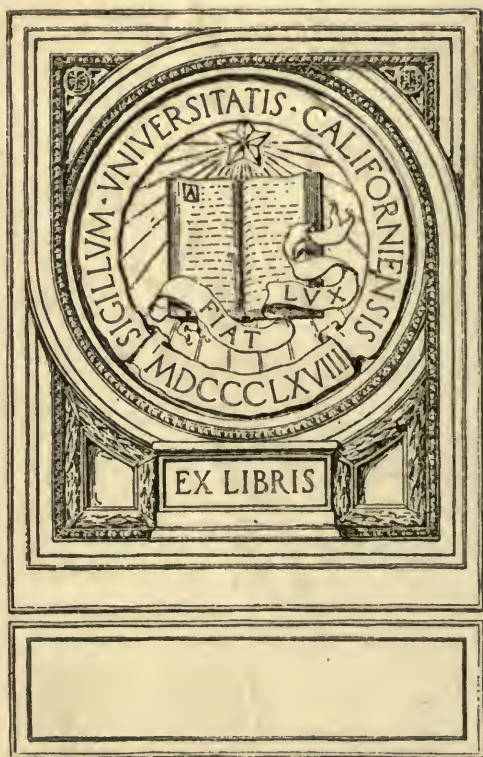
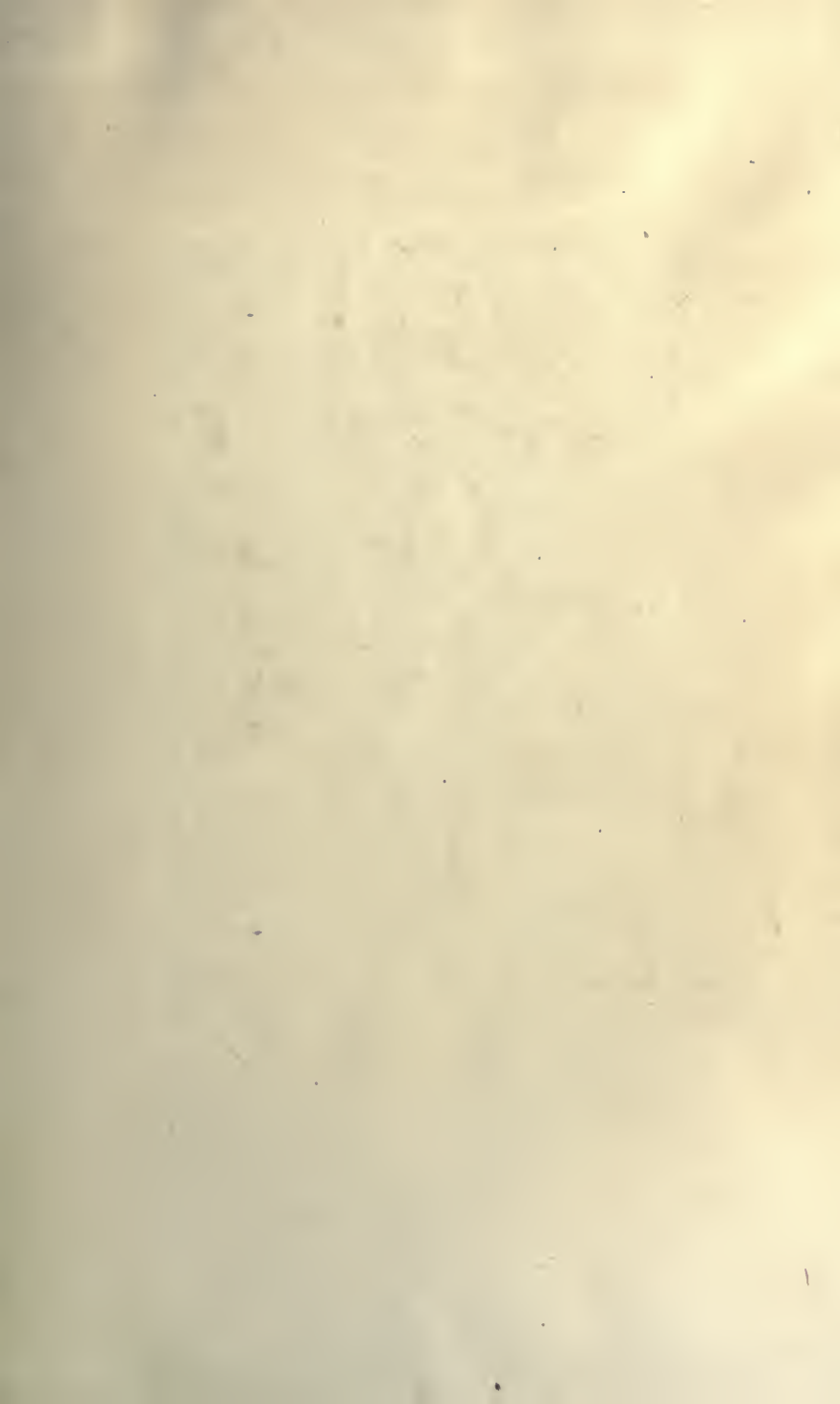


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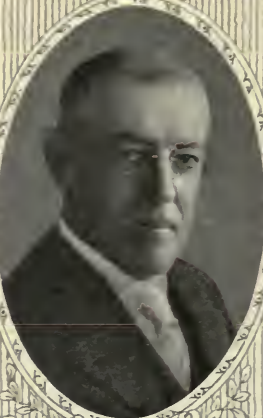




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THE LEAGUE OF NATIONS

The Principle and the Practice



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THE FOUR LEADERS OF THE PARIS CONFERENCE

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THE LEAGUE OF NATIONS

The Principle and the Practice



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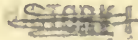
FRANCIS BOWES SAYRE



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PREFACE

It is undeniable that the great mass of intelligent people of Europe and America have come to the belief, as a result of the catastrophe that befell the civilized world in 1914, that a different international organization from the one existing at that time was essential to the peaceful development of humanity. This opinion crystallized into a demand for a league of nations of some kind, and the problem of organizing such a league was given precedence over all the other problems that were pressing for attention at the Peace Conference. The Covenant of the League has been adopted by the Conference and will shortly go to the signatory states for ratification. Ought it to be ratified?

The answer to this question can be given only after we have decided what we mean by the thing itself. Graham Wallas has said: "It is this last relation between words and things which makes the central difficulty of thought about politics. The words are so rigid, so easily personified, so associated with affection and *prejudice*; the things symbolized by the words are so unstable." The cry has gone up for a league of nations. But what do we mean by a league of nations? Is it something new, or have there been similar proposals in the past? Before 1914, or during the war, had the nations developed institutions which pointed the way to a league? What is the philosophy underlying a league of nations? How shall the League be organized? More important still, what are the actual duties which the League should be called upon to perform? For only in so far as it functions continuously, will the League of Nations be a vital thing. Finally, what shall be America's relation to the League of Nations?

It was in the hope that they might help thoughtful

people to answer these questions that the men who have collaborated in the writing of this book undertook the task. Each collaborator was selected because of his acknowledged position as an authority in the field in which he has written. A book in the writing of which a number of men have collaborated is open to criticism on the ground of repetition and inconsistency. Certainly in this book the reader will often find the same problem considered in different chapters. It would be difficult, for example, to write chapters on the League of Nations and the National State, International Sanctions and the Limitation of Armaments, and International Administration, without considering in each the important problem of national sovereignty. But the repetition is justified, not only by the importance of the problems themselves, but also by the value to be derived from an approach to them by different minds and from different angles. In view of the policy followed by the editor, of abstaining from all interference in expression of opinion, there is a remarkable degree of agreement among the collaborators.

The book is intended to appeal to two classes of readers: intelligent laymen seeking a general exposition of the subject, and students in need of a textbook on the subject. It is written in simple and untechnical language. Wherever technical terms have been employed, they have been clearly defined and consistently used. An attempt has been made to give a logical presentation of the subject. The book is divided into three parts. Part I deals with the history, philosophy, and organization of a league of nations; Part II with international coöperation as applied to concrete problems; Part III with the place of the United States in a league of nations. For the benefit of the student or the reader who wishes to make a more detailed study of the subject, there have been placed in the appen-

dix the plans of the Abbé Saint-Pierre and Immanuel Kant, the texts of the Holy Alliance and of the Monroe Doctrine which it called forth, the most important provisions of the Hague Conventions and the American reservations to the conventions, and the complete text of the Covenant as finally adopted at the Peace Conference. The book closes with a bibliography arranged according to chapters, which it is hoped will be particularly helpful in the further study of the subject and its specific problems.

In the production of this book the editor wishes to make grateful acknowledgment of the services of Mr. J. P. Chamberlain, who read the entire manuscript and made many valuable suggestions, of his associate in the Institute of International Education, Miss Margaret C. Alexander, who read all the manuscript and the proof, and of Professor Lindsay Rogers who prepared the bibliography. To have been associated with the fine group of scholars who have written the chapters of the book has been indeed a pleasure. To have contributed to an understanding of the most important problem that confronts mankind at the present time—if such should be the fate of the book—would be sufficient compensation for all the time and attention given to it.

STEPHEN P. DUGGAN.

NEW YORK, *June 1, 1919.*

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In this chapter are discussed first, the organization of the world as it existed in 1914 and the reasons why the almost inevitable consequence of that organization was war; second, the reaction of the people of the United States to the war and their insistence upon a form of world organization that would prevent another such catastrophe; third, the question whether the Paris Covenant for a League of Nations will remove the international evils of 1914; and fourth, whether it conforms to the expectations raised by the declarations of statesmen during the war.

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By JOSEPH P. COTTON, *advisor to the Allied Maritime Transport Council*, and DWIGHT W. MORROW, *of the New York Bar, member of the Inter-Allied Food Council*

During the war, the Allied governments built up new and effective machinery for international coöperation in the service of

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need of compulsory arbitration, with the means of making it effective by the application of different kinds of force. It deals also with the need of foreseeing causes of dispute and removing them. It then compares the two possible forms of League for attaining these objects, and proceeds to describe the organs that a League must have — judicial, mediatory, advisory, and deliberative; the reasons for having two bodies, one large and comprehensive, the other small and efficient, together with the method of appointing the delegates thereto. Finally, it touches upon the agencies of a broader international utility.

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CHAPTER I

INTRODUCTION

BY STEPHEN PIERCE DUGGAN

Director of the Institute of International Education; Professor of
Education at the College of the City of New York

HUMANITY has just passed through the most terrible ordeal in its history, an ordeal that has caused many men to despair of the possibility of a peaceful organization of the world that will be durable. There is general agreement that a treaty of peace will be but a mere truce if it settles only the more immediate problems of the war, leaves untouched its underlying causes, and provides no remedies for the defects of the international organization which broke down in 1914. The first step, therefore, in the study of the problem of international reconstruction is a consideration of the way in which the world was organized politically at the outbreak of the Great War.

Political Organization of the World in 1914.—
1. There were the eight Great Powers—France, Germany, Austria-Hungary, Italy, Russia, Japan, Great Britain, and the United States. Several of these powers were competitors overseas for colonies, protectorates, or spheres of influence which might be sources of raw materials or markets for their surplus products. Several held in subjection alien peoples, control of whose lands was necessary as a source of raw materials, of man-power, of strategic defense, or of access to the sea. Their competition for power, prestige, and industrial primacy led in every case, except in that of the United States, to the maintenance of large standing armies or great navies whose expense was a

grievous burden upon the masses of the people. Their relations with one another were maintained partly by secret agreements, and their political life was characterized by the recurrence of international crises such as those over Morocco and the Balkans. These crises usually resulted in the mobilization of military forces at great cost, and were generally followed by additional increases of armaments. The burden of these armaments had become so crushing that just before the Great War it was evident that it would be necessary to resort to war, bankruptcy, or disarmament.

2. There were some forty-two small nations that were legally equal, independent, and sovereign; legally, however, and not virtually. Few felt thoroughly secure in their territorial integrity, political independence, or economic opportunities. Russia took Bessarabia from Roumania against her will in 1878. Germany and Great Britain agreed upon the division of Portugal's colonies between them in 1913. Austria-Hungary, the chief market for Serbian products, repeatedly compelled Serbia to do her bidding by outrageous advances in tariff rates which she would not have dared to make against a great power. Fear made Sweden anti-Russian. Fear made Denmark anti-German. Many small states in 1914 lived in fear of some large state; some small states were in reality vassal states.

3. In addition to the independent states large and small, there were millions of people forming suppressed nationalities within independent states, such as Poles and Finns in Russia, Slovaks and Croats in Hungary, Armenians and Greeks within the Ottoman Empire. These peoples did not enjoy the same rights as the predominant race, were not permitted to develop their national culture on equal terms, and, generally speaking, lived upon an infe-

rior plane. Many of them were nationally and politically self-conscious, bitterly resented their subject condition, and only awaited an opportunity to turn upon their oppressors. This was also true of the "unredeemed" peoples, — that is, peoples living outside the borders of their native state and within a state from which they desired to be released, — like the French of Lorraine, the Italians of the Trentino, the Roumanians of Transylvania.

4. There were the "backward" peoples, such as those of China and Persia. These peoples saw their territory divided into spheres of influence by the great powers, which exploited the resources of their respective spheres primarily for their own benefit. The Chinese, for example, were compelled to see their mines, forests, and water-power pass from their own control into the hands of foreign concessionaires who paid no attention to their protests and little to their welfare. The activities of the foreign concessionaires were synchronous with nationalistic agitations on the part of the "backward" peoples, which boded ill for the general peace.

5. Finally, there were the uncivilized peoples, such as those of Central Africa. Millions of black men had been done to death under disguised forms of forced labor on the plantations, in the rubber forests, and in the gold and diamond mines of the white occupants of their lands. The black men were, moreover, drilled into armies, not only to maintain the alien régime established in their homelands, but also to fight the battles of the white men in foreign lands.

It would do the cause of international coöperation no service to maintain that there was no other side to this sombre picture of world organization in 1914. Security of life and transit and improved health conditions had been greatly increased, not only among the advanced, but

among the backward peoples as well. This was true also of the uncivilized peoples upon whom peace had been imposed to prevent mutual extermination. It was particularly true that the civilized nations had made remarkable advances in international coöperation in ways that pertained to their business and economic life. They had regulated in common their postal and telegraph relations and had much common legislation by treaty, for example, in regard to the rules of the road at sea. Some of them had agreed upon identical railway freight regulations and sanitary precautions. Outside of official relations, much international coöperation had been secured in the fields of culture, business, and labor. Nevertheless, a world organization which permitted the evils and injustices described above, culminating as they did in the outrageous attack upon inoffensive Belgium, comes very near to justifying the descriptive term anarchical.

America's Early Reaction to the War.—The attack upon Belgium roused intense indignation among the people of the United States, and the frightful character of the conflict created the greatest horror among them. The attention of Americans had been so concentrated upon developing the vast resources of their own country, and they had lived in such comparative isolation from the great international movements, that they were not informed as to the complex of causes which brought about the Great War. Their instinctive reaction, therefore, was to organize for the purpose of crushing war. This feeling resulted in the formation of the League to Enforce Peace, early in 1915, and the platform put forward by that League was most creditable to the humanity of its members. Moreover, the splendid campaign of education conducted by the League from that date to the present moment has probably done more than has any other single agency to

rouse the American people to the need of a new and better world organization. Nevertheless, the kind of league suggested by it was rigid and mechanical, and would result in a static world. As the Great War progressed, and opportunity was given for a study of all the forces that had coöperated to bring it about, the belief grew among thoughtful people that a league of nations must have as its primary purpose the modification of the conditions that lead to war rather than the enforcement of peace. This view was given expression in the platform of the League of Free Nations Association, which stated that the fundamental purpose of the League was to achieve for all peoples security of national existence and equality of economic opportunity. It was also expressed in the Victory Programme afterwards adopted by the League to Enforce Peace. The movement in favor of a more liberal and elastic league was given impetus by the speeches of President Wilson, from which the people of the country seized and made much of such phrases as "the rights of small nations," "the privilege of all peoples to determine their own way of life," "to make the world safe for democracy," and so forth.

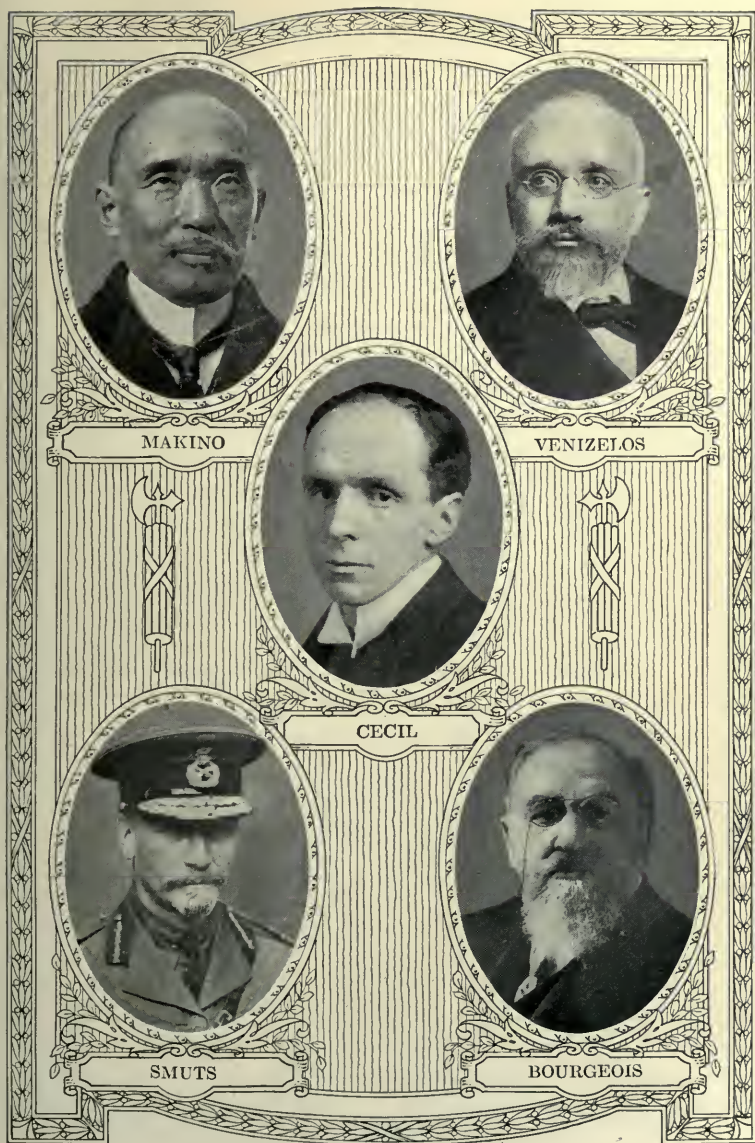
The Covenant of the League of Nations adopted at the Paris Conference is now before us, and it is proper to ask whether it remedies the evils described in the first pages of this chapter, and whether it meets the hopes of thoughtful people roused by the discussions that have taken place during the past four years and by the speeches of responsible leaders like President Wilson. The reader will be in a better position to answer these questions after studying the admirable and scholarly exposition of different aspects of the problem given in the succeeding chapters. The editor wishes to consider them only in outline.

Adequacy of the Covenant.—(1) *In removing political*

causes of war. The instrument adopted at Paris is not a constitution but a covenant—a solemn treaty between independent nations. A constitution is the fundamental law of a government, and no super-government, not even an international government, was organized at Paris. Those students of international relations who hoped that the Great War would reconcile people to the formation of an international government which would have the power to legislate and enforce commands, minimized the importance of nationalism in international affairs. The war has strengthened nationalism, not weakened it. One of the causes of the war was the suppression of nationality in central and eastern Europe; one of the ideals to be realized by the war was the right of expression of that nationality; and the trials through which the peoples of the great nations of western Europe and North America have passed have intensified their own spirit of nationalism.

Nothing is more significant in this connection than the unwillingness of the Allies during the war to grant full power to the inter-Allied councils that allocated food, shipping, and raw materials. In every case the final decision had to be referred to the home governments for ratification. If that were true at a time when those states were battling for their very existence, it can readily be understood that, as soon as the danger was removed, there would be little disposition to welcome suggestions looking toward the abatement of the independence and sovereignty of national states. On the contrary, at Paris every effort was directed to safeguarding them so far as possible, in order to secure agreement to any league of nations. A brief consideration will show how successful those efforts have been.

Article X of the Covenant guarantees the territorial integrity and political independence of all states members



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of the League. Article XV contains a provision that was adopted as an amendment to the first draft of the treaty, which specifically excludes matters of "domestic jurisdiction" from action by the Council of the League. Article VIII, which relates to the reduction of armaments, provides that the limit set for any state shall become operative only after it has been adopted by that state. In addition to these articles which require the consent of a member to the setting aside of a right safeguarded to them, there are other articles making it difficult to do so even when its consent is not necessary. Article XV, which relates to the referring of political as against judicial disputed questions to the Council or the Assembly for inquiry and report, provides for necessary acquiescence by the disputants in the findings of the Council or Assembly only in case they were made unanimously. Article XXVI provides that amendments to the Covenant can be made only with the consent of all the states represented in the Council, which includes the five great allied powers.

It may be asked how, in face of the deliberate adoption of so many provisions having for their aim the maintenance of national sovereignty and independence, a better and more secure world organization is possible than that which existed in 1914, built as that was upon the principle of national sovereignty. The answer is that the possibility of a better world organization resulting from the League of Nations is dependent upon its ability to maintain peace, first, by abolishing some of the remaining causes of war, and second, by providing for the rapid and peaceful settlement of disputes. One of the chief causes of war during the past century has been opposition to the realization of nationality by suppressed and disunited peoples. The principle of nationality has been applied at Paris to such an extent as to make it less likely to be the cause of war.

Another provocation of war, hitherto, has been militarism based upon the conscription of the manhood of a nation in standing armies. The successful outcome of the war for the Allies dealt militarism a great blow, and it may be that the provisions of the Covenant for the reduction of armaments will remove it from the category of causes of war. The opposition to the spread of democracy in some of the great states of Europe was also a direct menace to peace. With the disappearance of the Austro-Hungarian and Ottoman empires and the conversion of the German and Russian imperialisms into democratic national states, the danger to peace from autocracy is practically removed. All these are political causes of war, and it is evident that the war and the Covenant have done much to abolish them.

(2) *In removing economic causes of war.* The same degree of success cannot be claimed in the case of economic causes of war. For example, competition for the control of the backward regions of the earth, in order to exploit their resources and control their markets, has been little affected by the war, although the Covenant has made a beginning. Time alone can tell what may be accomplished under Article XXIII, which states that provision shall be made through the instrumentality of the League "to secure and maintain freedom of communication and of transit and equitable treatment for the commerce of all Members of the League." It will probably, however, secure access to the sea, and the free and equal use of ports for landlocked states like Poland, Hungary, and Czechoslovakia. It will also probably result in expanding the use of the international organs which administer international railways, waterways, and highways.

Again, a beginning, though only a feeble beginning, has been made toward securing equality of opportunity in

the backward regions of the earth by the provision of Article XXII, that, whoever become the mandatories for German East Africa, Kamerun, and Togoland "will secure equal opportunities for the trade and commerce of other Members of the League." In all probability, however, the success of the League in removing some of the remaining causes of war, political and economic, will be realized chiefly by means of the provisions of the Covenant which make for publicity. As those provisions particularly affect the peaceful settlement of disputes, they can best be considered in a brief discussion of that subject.

Provision for the Peaceful Settlement of International Disputes. — Articles XII to XV inclusive provide for the reference of all disputes between members of the League, either to courts of arbitration for award if the disputes be justiciable, — that is, about questions of fact, or interpretation of treaty provisions or of provisions of international law, — or to the Council or Assembly for investigation and report if the disputes are non-justiciable — principally matters of vital interest or national honor. There has never been any disposition on the part of states to refuse to accept the awards of courts of arbitration or the recommendations of commissions of inquiry. The unwillingness which has existed at any time has always been to agreeing to submit their disputes to arbitration or inquiry. Article XVI provides the penalties to be inflicted upon a state that refuses to submit its disputes to peaceful settlement and resorts instead to war. The nature of these penalties, namely, the economic boycott and the use of military and naval forces, is fully discussed in the body of this book. It is advisable here, however, to consider briefly the provisions for publicity and delay, which have hardly received the attention in the public discussions that their importance merits.

Under Article XV the parties to a dispute that has been referred to the Council agree to send promptly a complete statement of their case to the Council which may forthwith order it to be published. If the Council through its mediation brings about a settlement of the dispute, it publishes a statement showing the nature of the dispute and the terms of settlement, with appropriate explanations. If the Council is unsuccessful in settling a dispute, it publishes a report stating the manner in which it thinks the dispute should be settled, with reasons for its recommendations. If it is not unanimous in its decision, the majority *must* publish such a report and the minority may. Three months must then elapse before either disputant may take up arms. It is obvious, therefore, that the Covenant does not necessarily prevent war. But a state that was doubtful of the justice of its own cause would hesitate long before taking action which would result in its statement of reasons being published to the world, with the knowledge that the world would have several months in which to compare the statement with that of the other disputant before that state could resort to arms. It is hardly possible that the Austro-Hungarian ultimatum to Serbia, which was the occasion of the Great War, would have been written under such circumstances. Even Germany would have hesitated in her violation of Belgium had she been able to foresee the conscience of the civilized world arrayed against her. And it required only the knowledge of the facts to array the conscience of the world against her.

Other Provisions. — The provisions for publicity in the matter of disputes between states are equaled in definiteness by the provisions for publicity as to situations which may lead to dispute. Not only is the Council or Assembly empowered to “deal at its meetings with *any* matter . . .

affecting the peace of the world," but Article XI declares it "to be the fundamental right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends." This is a most important provision of the Covenant, for it practically insures us against a rigid and inflexible league, and provides for securing the information necessary to enlighten men upon vexed matters which, if left to develop in obscurity, might suddenly lead to explosion.

Again, although it might be hard for an ordinary citizen to define just what he means by secret diplomacy, the evils of the thing itself have deeply affected him. He will naturally rejoice at the adoption of Article XVIII, which is the only practical step that could be taken toward full open diplomacy. It provides that no treaty or international engagement shall be binding until it shall be registered with the Secretariat, "and shall as soon as possible be published by it." The evil effects of secret treaties that bind states have been made evident at the Paris Conference itself, and the provision for publicity will probably be as welcome to most statesmen as to most citizens.

Secret diplomacy as an obstacle to international peace has been equaled by secrecy in military preparation and equipment. Article VIII provides that states shall give "full and frank information as to the scale of their armaments, their military and naval programmes, and the condition of such of their industries as are adaptable to warlike purposes"; and Article IX establishes a permanent commission to advise the Council on military and naval questions generally. Under such provisions it would be hard for a state suddenly to thrust upon the world infernal

devices for warfare such as those with which Germany surprised it during the recent conflict.

Article XXII declares that a state which has become a mandatory for a backward region "shall render the Council an annual report in reference to the territory committed to its charge," and that "a permanent commission shall be constituted to receive and examine the reports of the mandatories and to advise the Council on all matters relating to the observance of the mandates." The horrors of the Belgian Congo, which were removed only as the result of a campaign of publicity, could not have flourished had such a mechanism for giving information been in existence. For the first time conscientious people can feel that something like adequate provision has been furnished for the protection of the helpless and voiceless in the exploited regions of the world. Finally, Article XXIV provides that "in all matters of international interest which are regulated by general conventions but which are not placed under the control of international bureaus or commissions, the Secretariat of the League shall, subject to the consent of the Council and if desired by the parties, collect and distribute all relevant information and shall render any other assistance which may be necessary or desirable." It is obvious from all these provisions that an effort has been made to build the League upon the intelligence and reason of men.

The League as a Remedial Force. — The question already asked, whether the Covenant provides remedies for the evils of the international organization described in the first pages of this chapter, may be answered affirmatively to this effect: that the Covenant furnishes a mechanism which provides for the rapid and peaceful settlement of disputes after they have risen and for securing the necessary information upon which to make intelligent decisions to remove

causes of dispute and to allow of healthy growth. Mention has already been made of the great amount of international coöperation in the business and economic life of the world that existed before the Great War. With the greater certainty of peace the possibilities of development in the use of the international commissions and bureaus that survived the war and of those founded by the Covenant are very great. The framers of the Covenant were wise in assuming that the nations of the world were ready to accept increased international administration where they might balk at an attempt at international government. Given peace and security, reliance may be placed upon the force of necessity, the instinct of imitation, and the growth of rationality, to develop a better and juster world organization. It is true that during the war the inter-Allied Councils that allocated food, shipping, and raw materials had to refer their decisions to the home governments for ratification. But ratification was never refused, simply because the facts gathered by the Councils precluded refusal. Similar results may be fairly expected from the gathering and reporting of facts by the commissions of the League of Nations. If the practical supervision of the former German colonies by the League's Commission on Mandatories were to result in a better status for the nations and a greater harmony among investors and traders from the industrial nations, it would be hard for the nations that hold colonies not to administer them according to equally high standards. With a durable peace there will probably be developed a greater willingness to accept limitations upon sovereignty such as that involved in the decision by a majority instead of unanimous vote. Decision by majority vote is the rule in such important international bodies as the Danube Commission and the Sugar Convention. In all these ways the

purpose as set forth in the preamble of the Covenant, "to promote international coöperation," will be realized.

This brief summary may possibly best be brought to a close by an attempt to answer the question previously asked, whether the Covenant meets the hopes of thoughtful people which have been roused by the discussions that have taken place during the past four years, and by the speeches of responsible leaders like President Wilson.

Thoughtful people are convinced that, to be successful, the League must be a world league. As formed, it is not. Germany and her allies in the war, Russia, Mexico, Santo Domingo, and Costa Rica are omitted. If those states, especially Germany and Russia, containing more than half the population of Europe, are to be permanently, or even indefinitely, excluded, it would be fatal to the aims of the League. In all probability the minor enemy states which arise from the ruins of the Austro-Hungarian and Ottoman empires, namely, Austria, Hungary, and Anatolia, together with Bulgaria, will be quite promptly admitted to the League. It can hardly be expected that Russia should be one of the initial entrants, for the simple reason that no one yet knows just what Russia is; but it can hardly be doubted that, when Russia is stabilized, her admission will be a matter of course.

There remains Germany, in terror of whom, despite her débâcle, the neighboring states still live, and in whose good faith they have little belief. Because of these facts it is easily understood why those neighbors should demand "effective guaranties of her sincere intention to observe her international obligations." But Germany is in process of reorganizing her political life upon a democratic foundation and there seems to be little left in the country of the belief in *Machtpolitik* as the basis of international relations.

Even the demands of her neighbors, therefore, should be soon realized and her entrance to the League secured.

But mere entrance for Russia and Germany will not be enough. If strong democratic states emerge from the ruins of the old imperialist régimes, Russia and Germany cannot be kept in a position of permanent inferiority to the other five great powers which make up a majority of the Council, the really powerful organ of the League. Provision is made for their possible permanent representation in the Council, in Article IV, which reads, "With the approval of the majority of the Assembly, the Council may name additional members of the League whose representatives shall always be members of the Council; the Council with like approval may increase the number of members of the League to be selected by the Assembly for representation on the Council." It may be said that, even when Russia and Germany become stabilized and democratized, their permanent representation on the Council can be prevented by the vote of one member, since unanimity would be required for the decision of the Council. That is true, and reliance must be placed upon the insistence of liberal opinion in the countries of the five other great powers. It is to be regretted that the proposed amendment to the Covenant providing for its revision in not less than five nor more than ten years was not adopted. Opportunity would then have been assured for permanent representation upon the Council of all the great powers upon which the burden and responsibility of maintaining world peace and progress primarily fall.

The desire expressed by many, that the League be one of peoples rather than of governments, has not met with the same unanimity among thoughtful people as has the desire that the League be world-encompassing. This was not because there was lacking the hope that the League

will be as democratic in its organization as in its ideals, but simply because of the difficulty of realization. It would not be a wise suggestion that the American representatives in the Assembly of the League be elected by the whole people participating in a presidential election, for such a procedure would only introduce a confusing element into our domestic politics. It may be suggested that Congress, as representative of the people, should elect the American delegates. It is a question, however, at the present time, whether our Democratic President, elected by a small majority of electoral and popular votes, is less representative of the American people than our Republican Congress, which has a small majority in both Houses. If the answer to that objection is that the representatives should be elected on the principle of proportional representation, it must be pointed out that, while that might secure true popular representation in the United States and Great Britain, where the legislatures are usually divided between two great political parties, it would not be true of the other European states, where few of the legislatures have less than half a dozen political parties, often quite evenly divided in numbers. Probably the best solution would be for the ministry to submit the names of the delegates to the popular house in countries with a parliamentary form of government, or to the body constitutionally provided for confirming office-holders, as is the Senate in our system. But provision for that method or any other method of selection should be made by each state itself. It can hardly be expected that it should be dictated by the League.

Considering the conditions under which the Covenant was drafted, namely, by the representatives of states filled with deep resentment at the conduct of an unscrupulous enemy, most of them hoping to realize the individual aims

of their separate nations, — many of them long-deferred aims, — it may justly be claimed that the Covenant meets the reasonable expectations of thoughtful people. Whether such people will welcome it with enthusiasm will depend largely upon the treaty of peace of which it will be a part. In the case of a just peace, the League of Nations is needed to realize its provisions and build upon them for a better future; and in the case of an unjust peace, the League is the only organ existing that can possibly remedy the evils that would result from the continued enforcement of its unwise provisions. To reject the Covenant is to return to the condition of things described in the first pages of this chapter. To adopt it is, as was the case with the adoption of the Constitution of the United States, to take the first step toward making the world a better place in which to live. Its success depends in large measure upon the spirit behind it. For thoughtful men that will result largely from an understanding of the questions involved in its operations. The purpose of this book is to call attention to some of these questions, in such a way as to show their importance and to arouse that discussion which alone can inform statesmen of the will of the people.

CHAPTER II

THE HISTORICAL BACKGROUND

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To the League of Nations as projected in 1919, history affords many contrasts and few comparisons. For it should be borne in mind at the very outset that current conceptions of society and government are, in the long annals of recorded history, of relatively recent origin. To us who live now, the whole terrestrial globe is known or is knowable; most distant places are linked to our own localities by telegraph and telephone, by express trains and swift steamships; and the resulting developing trade in wares and in ideas serves to establish an all but universal norm of culture and civilization throughout the world. With us, moreover, it is axiomatic that people who speak a common language and share common traditions should politically be united as a nation and that each nation should determine its own form of government and shape its own internal policies.

Yet what is axiomatic or commonplace to us would have seemed miraculous, if not utterly impossible, to our ancestors. The "Europeanization" of Japan and of Africa has been prosecuted only within the last fifty years. The steam engine barely antedates the past century. The discovery of America and the invention of printing were alike undreamed of five hundred years ago. It was then a different world in its physical surroundings and in its intellectual content. In those days the problems of man's relations to his fellows were different from such problems nowadays, and naturally the solutions offered were different.

As an illustration of this point, we may profitably set

over against the present world, fairly uniform in its manners and ideals, a distant world whence have come most of the traditions of European and American civilization — the world of Greeks and Romans. That distant world was a little world, isolated in the basin of the Mediterranean by barbarous tribes to the north and to the south. And within that little world there was no railway, no telegraph, no telephone, no automobile, no reliable physical means of tying colony to colony or tribe to tribe, to say nothing of bringing the Græco-Roman world into vital contact with the one other cultural region on the earth's surface — the region of eastern and southern Asia. The result was, not only the widest divergence between the civilizations of the Mediterranean and of Cathay, but the inherent isolation and self-sufficiency of every locality within the Græco-Roman world.

International Coöperation among the Greeks.—With all their marvelous achievements in art and learning, the ancient Greeks never established a national state. With all their vaunted loyalty to their respective cities, they never developed a patriotism in the modern sense of the word. Of the two wars which loom so large in Greek history, the one was fought by a Persian king, with the aid of Greek cities, against other Greek cities, and the second was a terrible duel between Athens and Sparta. In fact, it was the existence of multifarious independent little city-states, and of chronic wars among them, that most truly worked the downfall of Greece. To be sure, philosophers like Epictetus and Zeno preached the "brotherhood of man," and Plato pictured the peace-state "Atlantis"; but beyond some experiments in arbitration, the Greeks did little to promote a peaceful settlement of their internecine quarrels, and nothing to prevent war with non-Greeks.

“International” among the Greeks customarily meant “interurban”; and the Amphictyonic Council, which has sometimes been compared, quite mistakenly, to the Hague Conferences and to the League of Nations, was merely a congress of delegates from Greek city-states. It was national rather than international, and it was less political than religious. It represented the common religion of the Greeks in much the same manner in which Church councils subsequently represented Christendom. The primary business of the Amphictyonic Council was to regulate the worship of Apollo at Delphi, and only incidentally did its religious functions assume a political character.

The Pax Romana.—Unlike the Greeks, the Romans actually constructed a great and relatively unified state. But the Roman state was not based on any doctrine of nationality; at its height it was the very antithesis of our modern national state. It embraced Greeks and Latins and Jews and Egyptians and Phœnicians and Celts and Moors, innumerable tribes, each enjoying such autonomy as its isolation would warrant and its power would secure. The Roman Empire, by reason of its comprehensiveness, could not have “international” relations with other states, unless possibly with Persia, or with distant China, or with German and Scythian barbarians. On the other hand, among the myriad peoples who composed it, the Roman Empire undoubtedly did serve, while its legions were potent, as a league to enforce peace; and the *Pax Romana* presented for several centuries a brilliant contrast to the havoc which perpetual interurban war had wrought in Hellas. It must be remembered, however, that the *Pax Romana* was enforced, not by resolutions of an Amphictyonic Council or of any representative body whatsoever, but by the will of an emperor and the swords

of his soldiers. The Roman Empire was constructed by conquest and subjugation, not by any self-determination of peoples; and the peace which it enshrined was not a democratic peace.

The Holy Roman Empire and the Catholic Church.— Upon posterity the political influence of Imperial Rome was much greater than was that of separatist Greece. The idea of preserving unity among civilized men, of promoting universal allegiance to a common lawgiver and obedience to a common law, appealed powerfully to thoughtful men throughout the “Dark” and “Middle” Ages, and has continued to affect mankind to the present moment. This idea found expression from the eighth to the seventeenth centuries in the efforts of various ambitious warriors and statesmen of western Europe to build world empires that could be called Roman — Charlemagne, Otto, the Hohenstaufens, and the Hapsburgs. The same idea likewise found expression, perhaps more real, in the Roman Church, which, in the political as well as in the strictly religious domain, long performed many of the services which had contributed to the grandeur of Rome; the mediæval church tamed and trained the barbarians, developed a system of private and public law, and in converting Germans and Poles and Scandinavians and English and Hungarians and Czecho-Slovaks, as well as Mediterranean folk, to a common cult and to common ideals, laid claim to a universal dominion.

That neither the Holy Roman Empire of the Middle Ages nor the mediæval Catholic Church was altogether successful in maintaining a *Pax Romana*, was due in large part to the nature of the period’s social structure. Society at that time throughout Christendom was essentially feudal: each petty duke or count was “sovereign” in his own small yet self-sufficing territory; and the “kingdoms”

which composed the secular and spiritual empires were mere loose federations of separatist counties and duchies. There were perpetual conflicts between emperors and popes; worse still, there were constant revolts of kings against the central authority, and of powerful vassals against less potent royal suzerains. Yet the picture of mediæval society and politics must not be drawn too dark. Despite disruptive social tendencies and chronic private warfare, the idea of political unity was never lost sight of. The conception of a federation of states was a mediæval commonplace.

Usually, however, the conception had at bottom the purpose of organizing Christian states, big and little, for war on non-Christian peoples, particularly on Islam. Such, at any rate, was the point of the decree promulgated at the Council of Clermont in 1095, by which, under the direst spiritual penalties, private warfare was prohibited on certain days of every week, and the Truce of God made part and parcel of that *Pax Ecclesiæ* which must be a prerequisite to the successful prosecution of the crusades.

Such, too, was the point of the remarkable plan set forth by Pierre Dubois in his pamphlet "On the Recovery of the Holy Land" (1306), under which the Christian states would be federated and a permanent court of arbitration erected. St. Thomas Aquinas, writing in the thirteenth century, would preserve peace by exalting the papal theocracy. Dante, writing early in the fourteenth century, would entrust the preservation of peace to an all-powerful emperor. Marsiglio of Padua, in his celebrated "Defensor Pacis" (1324), would transform the general councils of the Church into a body representing the European states.

Within the two hundred years from 1450 to 1650, the idea of preserving a *Pax Romana*, whether by pope or by emperor, received a decisive set-back; henceforth it might

be a dream, but it could no longer be considered within the range of practical achievement. Within those two centuries the political theories and practices of fifteen hundred years gave way to our modern conceptions of sovereign national states. The historical career of Cæsar Augustus was actually terminated by the failure of the Emperor Charles V, and his abdication in 1555. A new epoch — our modern epoch — was at hand.

Rise of the National State.—The two most obvious factors in transforming the European from a “Roman” to a “modern” man were, first, the Reformation in the sixteenth century, and secondly, the Thirty Years’ War in the seventeenth century. The former marked the disruption of the Catholic Church. The latter reduced the Holy Roman Empire to impotence and eventual dissolution. These two events, however, were but signs of the time; they but registered the triumph of economic and social facts over antique political theories. The most truly effective forces in destroying the unity of the Church and in disintegrating the Empire were the discovery of America and of new trade-routes to India, the breakdown of local isolation and self-sufficiency, the destruction of feudal society, the expansion of trade and commerce, the rise of capitalism, the flowering of the several vernacular literatures, the strengthening of the power and prestige of monarchs and of their hold upon the loyalty of their subjects — in a word, the rise of nationalism and the consolidation of such national states as England, France, Spain, Portugal, Poland, Holland, Denmark, and Sweden.

Thus it was that, on the ruins of a universal, Catholic, and cosmopolitan world, was gradually reared, by the seventeenth century, the structure of our modern society and polity. Localism tended to disappear, but with it disappeared also the shadow of world empire; its place

was taken by a fierce and insistent nationalism. Men were now devoted to their nation, as formerly to their church; national patriotism became an addition to, if not a substitute for, ecclesiastical or imperial zeal; men who formerly had engaged in trade and commerce under the auspices of guild or city, now looked for protection and encouragement to their national monarch; the sovereigns of the new national states seized from the weakening hands of Roman emperors and Roman pontiffs the insignia of pomp and circumstance, and consecrated themselves, in effective fashion, omnipotent upon Earth.

To be sure, the older ideal of universal peace by universal dominion survived long after 1650, and produced some stirring events in history. The conglomeration of nine nationalities under the sceptre of Hapsburg princes, which has lasted down to our own day under the name of the Dual Monarchy of Austria-Hungary, is a pathetically tragic instance of the continuing force of an ancient principle. Napoleon Bonaparte, in his romantic moments, undoubtedly had before him the majestic unity of the Roman Empire. Nor is time long past when fearful persons saw in the rapid expansion of the Russian Empire a revival of Byzantium, of new Rome. Very recently have distinguished British writers, intent upon extolling the blessings of British rule throughout a far-flung empire, likened the *Pax Britannica* to the *Pax Romana*. And most recently the herculean efforts of the German Empire to impose its will and Kultur upon the whole world have revealed a too-Roman ambition.

But, after making due allowance for occasional exceptions, the rule is clear, that from the Thirty Years' War (1618-1648) emerged a System of National States, in which each state was presumed to represent a nation, and, regardless of its size or influence, to be absolutely independent

and sovereign — to be, in theory if not in fact, quite equal to every other state. What formerly had bound states together — the imposition of a definite code of imperial or ecclesiastical law — was now replaced by a vague sentiment of “humanity,” and by a more or less casual observance of customs founded upon self-interest. “International” relations, in the strict sense of that phrase, could now really begin — and they did begin.

It was no mere accident that the “father of the law of nations” flourished in the period of the Thirty Years’ War. Amid the crashing down of papal power and the crumbling of the Holy Roman Empire, some new sanction must be found for relations between states; and this sanction the great Hugo Grotius (1583–1645) discovered in the commonly accepted practices of the day respecting the conduct of war and the making of peace, and these practices he codified and tintured with some humanity and published in 1625 under the title, *De Jure Belli ac Pacis*. The first international congress was that in Westphalia, which in 1648 terminated the Thirty Years’ War.

Henceforth the system of national states was a reality, and international usage was gradually defined by a host of successors to Grotius. The writers on international law made no serious attempt, however, to urge the establishment of any super-state, or to champion any particular sort of coöperation among the several hypothetically equal and sovereign states, with a view to securing the peaceful settlement of international disputes; they were quite content to expound how wars might rightly be conducted, and to await the actual outcome of wars for the amendment and elaboration of their principles.

One important attribute of the state-system of the present day was lacking to the independent sovereign states of the seventeenth century. In those states, almost without

exception, there flourished as yet no doctrine or practice of popular sovereignty. Political democracy, as we know it, was then non-existent. Divine-right monarchy was in the ascendant. And the kings were busily engaged in strengthening their hold upon their respective states and in reaching out for additional lands and wealth. International wars, therefore, assumed the character of struggles for dynastic aggrandizement. How might this or that royal family, chosen of God, obtain wider territories and richer towns? Already there was sufficient national consciousness in Europe to make the common people proud of their nationality; and hence the kings could normally count upon the loyal support of their subjects in forwarding their own personal ambitions. But wars were undertaken upon the continent of Europe in the seventeenth and eighteenth centuries, not primarily for national or patriotic motives, but for the exaltation of a particular royal family. Inhabitants of disputed and border provinces knew nothing of "self-determination"; they were treated like so many cattle, or so much soil, which might conveniently be bartered among the kings of France, Spain, Sweden, or Prussia.

The immediate result of this recognized and legalized anarchy in international relations was a great increase in the number and violence of wars. First, in the seventeenth century, Austria, Spain, and France competed furiously with each other to the detriment of small states. Secondly, in the eighteenth century, the theory of the "balance of power" was successfully invoked by Great Britain, Russia, and other states interested in preserving the *status quo*, in order to set limits to the dynastic pretensions, now of France, now of Austria, now of Prussia. Between the hammer of dynastic ambition and the anvil of the "balance of power," the ploughshares of the people were

everywhere beaten into swords and their pruning-hooks into spears. It was a deadly work, deadly not alone to subjects, but eventually to monarchy itself.

The Grand Design of Henri IV and the Project of Abbé Saint-Pierre. — Here and there some voice was raised against the almost intolerable effects of international anarchy, and some promise was held out of a happier era under international organization. In the midst of the Thirty Years' War, as an ironical memorial to "what might have been," the Duke of Sully, that fascinating minister of Henri IV, attributed to his late master the "Grand Design" of constituting, after he should have defeated Austria, a vast European confederation of fifteen states, — a "Christian Republic," — controlled by a general council of sixty deputies reappointed every three years. Then, almost a century later,¹ at the close of the War of the Spanish Succession, and on the assembling of the second great international congress, — the Congress of Utrecht, — to determine the issue of the protracted struggle between Louis XIV and the Powers of the Grand Alliance, the Abbé Saint-Pierre, one of the interesting French critics and *philosophes* of the day, published (1712) a celebrated revision of "the project for perpetual peace invented by King Henry the Great." The Abbé Saint-Pierre proposed that there should be a permanent union between, if possible, all Christian sovereigns, — of whom he suggested nineteen, excluding the Russian Tsar, — "to preserve peace in Europe," and that a congress or senate should be formed by deputies of the federated states. The union should banish civil as well as

¹ Sully's version of the "Grand Design" was published in 1634, and the Abbé Saint-Pierre's project was first broached in 1712, though not put in final form until 1728. In the meantime, William Penn had published (1693) an "Essay towards the Present and Future Peace of Europe by the Establishment of an European Dyet, Parliament, or Estates."

international war — it should “render prompt and adequate assistance to rulers and chief magistrates against seditious persons and rebels.” All warfare henceforth was to be waged between the troops of the federation — each state contributing an equal number — and the enemies of European security, whether outsiders or rebellious members of the union. Otherwise, whenever possible, all disputes occurring within the union were to be settled by the senate; and the combined military force of the federation was to be applied to drive the Turks out of Europe. There was to be a rational rearrangement of boundaries, but thereafter no change was to be permitted in the map of Europe. The union should bind itself to tolerate different forms of Christianity.¹

Though the abbé's book was widely read and sympathetically commented upon by such geniuses as Montesquieu, Leibnitz, and Rousseau, the abbé's voice, like Sully's before him, was, among statesmen and diplomatists of the age, the voice of one crying in the wilderness. No century was more replete with wars and with failures of international coöperation than the eighteenth. And perhaps it was better so. For the “Grand Design” and the project of the Abbé Saint-Pierre alike were based upon the idea of leaguings together, not nations, but rulers, not peoples, but governments. Had either of the schemes been put in operation, it might have proved a potent bulwark to the preservation of a political theory peculiarly repugnant to us who live in the twentieth century. As it was, the anarchy which continued unchecked in the relations between divine-right despots carried in its wake the automatic destruction of divine-right despotism. From the chronic wars of the eighteenth century, and the miseries attending them, arose directly the popular outcry

¹ See Appendix I.

against tyranny and the first attempts at large-scale political democracy.

Effect of Revolutions of the late Eighteenth Century.— At the close of the eighteenth century occurred three events of momentous significance to our present study — three events which, added to the establishment of the system of national states in the seventeenth century, sufficiently explain in their subsequent correlation the popular demand in 1919 for a league of nations. These three events at the close of the eighteenth century were: (1) The French Revolution; (2) the American Revolution and Federation; and (3) the revolution in industry. A few words must be said about each one of these epochal events.

The French Revolution.— The French Revolution (1789–1799) inaugurated a significant modification of the European state-system. Within each state it attempted to substitute political democracy for divine-right despotism, and to emphasize the individual instead of his class. Of interstate relations it tended to make the nation the unit, rather than the monarch or the government. Self-determination of peoples was henceforth to be the ideal in internal organization and likewise in transfers of sovereignty. Patriotism was no longer to be synonymous with mere allegiance to a ruler; it was to be a vivifying and unifying force to liberty and to nationalism. “*Popular sovereignty*,” “*a nation in arms*” — these were the phrases which the French revolutionaries most commonly used, and which constitute in brief the best definitions of what the French Revolution has meant to posterity.

The American Revolution.— Events in America (1776–1789) had a twofold significance. In the first place, the successful revolt of the thirteen colonies against England was a highly practical illustration of the principle of

self-determination, and a positive proof of the ability of emigrant Europeans to govern themselves in republican fashion without interference from their former masters in Europe. In the second place, the federation of the thirteen colonies and their adoption of a strongly unifying Federal Constitution guaranteed them a stability and self-respect hitherto undreamed of, and paved the way for their common development in the arts and sciences of peace, and for their expansion into the present-day great power of the forty-eight United States of America. In many ways the task of federation was more difficult than the task of achieving independence. With the exception of possessing a common language and common literary traditions, the American colonies of the eighteenth century were more disparate in political, social, economic, and religious conditions, and more remote physically from one another, than are the chief nations of the world at the present time. Against seemingly insurmountable obstacles those same American colonies worked out and tried the experiment of constructing a popular league of states; and in the success of their experiment we Americans of a later day find one of our greatest national contributions to the world, to mankind at large.

The Industrial Revolution. — Synchronizing with the political revolutions in America and in France was the beginning in England of that application of the steam engine to manufacturing and to commerce which, continuing throughout the nineteenth century and permeating all civilized countries, has in the latest age worked a veritable revolution in industry and in society. It is this Industrial Revolution which has shrunk our globe and drawn all sorts of men together. It is this Industrial Revolution which has brought the chief nations of the world in closer contact with each other than were the thirteen English-

speaking American colonies a century and a half ago. It is this Industrial Revolution which has created a world-market for capital, raw materials, finished products, labor, and ideas; and which, by breaking down the last barriers of local isolation and self-sufficiency, has laid deep and broad the economic foundations of a political superstructure of internationalism. So recently has this revolution occurred, and so sudden and so silent has been its mighty march, that few persons really appreciate what a different world it has marked off from the antique world of Greeks and Romans, from the mediæval world of feudal baronies, and even from the early modern world of national states guided by divine-right sovereigns.

The Congress of Vienna. — It is the misfortune of man that, normally, he is not very far-sighted. About a hundred years ago (1814) there assembled at Vienna the third great European congress of statesmen and diplomatists; this time, to terminate the long and dreadful series of revolutionary and Napoleonic wars which had devastated Europe almost continuously from 1792 to 1814. Never before had Europe beheld such a galaxy of gold lace and titled dignitaries as gathered at Vienna. Six monarchs attended: the Tsar Alexander of Russia, the Emperor of Austria, and the kings of Prussia, Denmark, Bavaria, and Württemberg; dukes, princes, and electors were present in crowds, and such distinguished noblemen as Metternich, Castlereagh, Talleyrand, Stein, Hardenberg, Humboldt, and Nesselrode.

Never before had such distinguished company such an opportunity to perform distinguished service to mankind. Mankind, grown fearfully tired of war and bloodshed, longed for peace and for permanent peace, and expected much of the Congress of Vienna. And much might have been done by the Congress. Had the diplomatists been

far-sighted enough to perceive that the twin principles born of the French Revolution, namely, nationality and democracy, were destined at no distant date to be cherished in all their countries, they would have begun their work by a frank and sincere recognition of those principles, and would have been guided thereby in their territorial settlements.

Kant's "Perpetual Peace." — The foresight and imagination denied to the Congress of Vienna had already been vouchsafed to Immanuel Kant, the master Scotch-German philosopher. Early in the revolutionary wars (1795), Kant had published his profound little treatise "*Zum Ewigen Frieden*", (On Perpetual Peace).¹ Less detailed and pretentious than the Grand Design or the project of Saint-Pierre, and less concerned with immediate cessation of battle, Kant's work was more canny in its comprehension of existing social tendencies, and more cogent in its presentation of conditions necessary to assure international peace. These conditions, according to Kant, may be stated as four: (1) monarchs being largely responsible for war, every state must have popular government; (2) international law must be backed by a federation of free states; (3) men must be permitted to visit everywhere, but, as if to obviate one of the subsequent evils of the industrial revolution, ownership must not be allowed in foreign lands; and (4) no state may violently interfere with the constitution and internal administration of another.

But the Congress of Vienna was quite obsessed by notions absolutely at variance with those of Kant, and, as events proved, absolutely at variance with the hard cold facts of the century. With the possible exception of the Tsar Alexander, whose predilections for French Liberalism

¹ See Appendix II.



PROMINENT MEMBERS OF THE CONGRESS OF VIENNA

were still sincere if somewhat vague and romantic, the Congress of Vienna was one gorgeous pageant in celebration of the defeat of revolution and the triumph of reaction. The general principle underlying the Viennese settlement was the restoration, so far as practicable, of the boundaries and of the sovereigns of the several European countries as they had been prior to the outbreak of the French Revolution and the advent of Napoleon Bonaparte. Popular government, nationalism, and self-determination were all repudiated in theory and in practice. National considerations were calmly set aside, and, consonant with international usages of the seventeenth and eighteenth centuries, the European peoples were once more treated as so many pawns in the game of dynastic aggrandizement.

The Holy Alliance.—The harking back of the plenipotentiaries at Vienna to the days of territorial rivalry among the sovereigns of the Great Powers prevented them from fulfilling the expectations which the Tsar Alexander and enlightened public opinion outside the Congress had entertained, of a wider and more fundamental scope for their labors. To these altruists, the termination of a terrible period of revolution and warfare, of bloodshed and misery, and the rapid development of a sense of solidarity among all European princes and peoples, seemed a particularly auspicious opportunity for effecting a permanent settlement of the balance of power, for the discovery of safeguards against its future disturbance, for general disarmament and assurance of international peace, for the suppression of the slave-trade and of piracy, and for the solution of social problems. Such subjects were actually broached at Vienna by the Tsar; but their reception, though polite, was essentially chilly, and most of them were suffered to drop quite out of sight. Even Alexander

was soon absorbed in the ambition of obtaining Finland and Poland for his own dynasty.

Metternich, the directing genius at Vienna, was certainly desirous of rendering permanent the treaties of 1815. But he believed that the peace of Europe could best be maintained, not by a central tribunal resting upon the consent of the European peoples, which would recognize the hateful principle of democracy and which might seriously interfere with the hegemony of Austria, but rather by the vigilant benevolence of the allied sovereigns. He was content with a treaty (November, 1815) which formally bound the existing Quadruple Alliance—Austria, Russia, Prussia, and Great Britain—to the future convocation of diplomatic congresses for the preservation of peace and of the *status quo*.

The Tsar Alexander, however, in his dreamy, mystical way, had already gone a little further. While loyally adhering to the Quadruple Alliance as an effective means of maintaining the treaties of Vienna by physical force, he had felt that the great Christian principles of peace, forbearance, and mutual goodwill, solemnly subscribed to by all the European monarchs, would supply the basic and sacred spiritual motives for preserving society as well as boundaries and governments. Accordingly he had induced the pietistic King of Prussia and the obliging Emperor of Austria to join with him in forming (September, 1815) the celebrated Holy Alliance, by which the three sovereigns mutually promised to “remain united by the bonds of a true and indissoluble fraternity, and, considering each other as fellow countrymen, they will, on all occasions and in all places, lend each other aid and assistance; and, regarding themselves toward their subjects and armies as fathers of families, they will lead them, in the same spirit of fraternity with which they are

animated, to protect Religion, Peace, and Justice.”¹ All the European rulers, except the Sultan, the Pope, and the King of Great Britain, subsequently signed this treaty out of deference to the Tsar, and were duly admitted to the Holy Alliance.

Little comparison is possible between the Holy Alliance of 1815 and the League of Nations of 1919. The former owed more to the influence of Saint-Pierre than to that of Kant; the latter, in applying the basic principles of Kant, departs radically from the precepts of Saint-Pierre. The Holy Alliance was a loose league of sovereigns, with no provision for the legal settlement of international disputes and no clearly defined rules of procedure; it was, in fact, a denial of the doctrines of democracy, nationalism, representation, and self-determination of peoples. The present League of Nations, on the other hand, is founded frankly on these doctrines, and is provided besides with a fairly definite *modus operandi*; it is a real league of free nations.

In practice the Holy Alliance became merged with the Quadruple Alliance of 1815, and operated, not so much to lessen friction between states, as to authorize foreign intervention in the domestic affairs of any state threatened with revolution. In other words, the Holy Alliance was not in any sense a league of nations. It was rather a conspiracy of divine-right monarchs to employ their joint armed forces against their own political adversaries and against the nations. At any rate, whatever may have been the original purpose of the spiritual Tsar Alexander in 1815, the four European congresses convoked by the Quadruple Alliance, successively at Aix-la-Chapelle (1818), Troppau (1820), Laibach (1821), and Verona (1822), patronized in most worldly fashion what amounted to the

¹ See Appendix III.

policing of the whole Continent for the suppression of liberalism and nationalism. Even Alexander fell so completely under the spell of Metternich, that he signed with the others the final gloss on the Holy and Quadruple Alliances — the memorable protocol of Troppau: "States which have undergone a change of government due to revolution, the results of which threaten other states, *ipso facto* cease to be members of the European Alliance, and remain excluded from it until their situation gives guaranties for legal order and stability. . . . If, owing to such alterations, immediate danger threatens other states, the Powers bind themselves, by peaceful means, or if need be by arms, to bring back the guilty state into the bosom of the Great Alliance."

It was on the rock of intervention that the Great Alliance speedily split. The rapid spread of the teachings of the French and American Revolutions, and the fateful extension of the Industrial Revolution, made the self-imposed duty of intervention by monarchs chronic and almost universal, and at the same time made its success increasingly difficult. First the British government repudiated the protocol of Troppau; then President Monroe put the American government squarely on record as willing to resist by force of arms any attempted intervention by European sovereigns in the domestic affairs of Latin America; the French government treated the Alliance contemptuously; and even the Russian Tsar, instead of intervening in the Ottoman Empire to help the Sultan put down domestic insurrection, actually gave aid and comfort to the democratic rebels of Greece. By 1830 the Holy Alliance was a thing of the past. Had it been at any time a league of free nations, honestly trying to promote international concord, it might have long endured and been to us a priceless heritage. As it was, it

existed only for the advantage of selfish monarchs and the preservation of outworn and discredited political institutions, and as such it rightly incurred the hatred and opprobrium of mankind.

Democratic and Nationalistic Movements in the Nineteenth Century.—Relieved of the incubus of the Holy Alliance, the European peoples turned their attention during the greater part of the nineteenth century to domestic problems, especially to the problems of securing national independence and democratic self-government. Some states were already fairly homogeneous so far as community of language and national consciousness was concerned, — France, Great Britain, Spain, Portugal, Denmark, and Sweden, — and the citizens of these states devoted their energies chiefly to extending the suffrage, promoting popular education, and trying social experiments — in fine, to becoming democratic nations. Other states, like Austria, Turkey, and Russia, had never been homogeneous in any sense; and their subjects paralleled a more or less futile striving for political democracy with an increasingly militant struggle over questions of national right and national independence. From 1815 to 1900 practically every war on the continent of Europe represented an attempt on the part of some subject nationality to establish its unity and independence.

Much was achieved in this direction. The only failures were those of the Poles, the Czecho-Slovaks, and the Irish. Success, at least in part, crowned the labors of the Belgians, the Italians, the Germans, the Hungarians, the Greeks, the Serbians, the Roumanians, and the Bulgars. Once a people was freed from foreign domination, it usually vied with the older national states in forwarding democratic rule.

Tendencies toward Coöperation.— While these pro-

cesses of domestic readjustment were in full operation, little serious effort was expended on the construction of any international league. Yet it must not be imagined that the centrifugal forces of the era were more potent than the centripetal. At least within each freed nation there was a marked tendency toward federation and consolidation. For example, the United States, though condemned to a great Civil War (1861-1865) by the question whether its unity should be preserved or destroyed, emerged therefrom with a federal government strengthened rather than weakened. And the triumph of Federalism in America undoubtedly increased the vogue of the federative principle throughout the world. A federal form of government was instituted in the Germany freed from Austria and unified in 1866-1870. British North America, including French-speaking Quebec and English-speaking Ontario, was federated in 1867 as the Dominion of Canada. A federation of Austria and Hungary was effected in the same year. The older loose federation of Switzerland, embracing three different nationalities, — German, French, and Italian, — was enormously strengthened by constitutional revision in 1874, and by subsequent popular referenda. In 1900, the British colonies in Australia were federated into a Commonwealth. And nine years later the English-speaking settlers in Cape Colony and Natal were federated with the Dutch-speaking Boers of the Transvaal and Orange Free State to form the Union of South Africa. It was obvious that, at any rate on a small scale, the principle of federation could successfully be applied to several distinct nationalities as well as to populations possessing community of language.

Growing Interdependence of Nations. — Nor should the absence of attempts at political world federation during the nineteenth century obscure the fact that, as the

century advanced, the Industrial Revolution was ever progressing, and the most diverse localities and nationalities were being more firmly knit together by railways, steamships, telegraphs, and cables, while the number and importance of special international undertakings were constantly waxing. There was a prodigious increase of foreign travel and foreign trade, involving repeated treaty regulation between states. There was a remarkable growth of science and popular education, restricted to no one land and to no one nation. There was a marked tendency everywhere to adopt uniform standards of clothing, food, and architecture, as well as of literature, science, and politics. No civilized state could possibly live to itself alone.

Instances of International Coöperation.—For specific purposes, joint action by national states became prevalent. Thirty nations formed the Universal Telegraph Union (1875); twenty-three adopted a convention regarding the common use of the metric system of weights and measures (1875); sixty adhered to the Universal Postal Union, which was created in 1878, with headquarters at Berne in Switzerland; five joined the Latin Monetary Union (1865) for the regulation of an interchangeable coinage for the countries of Latin Europe; nineteen ratified the Berne Convention of 1883 for the standardization of patent laws; and fifteen signed the Berne Convention of 1887, providing for practically uniform copyright laws. And these were not the only instances of joint action for economic purposes.

International Movements of the Nineteenth Century.—Outside the immediate sphere of governmental action, there were many popular international movements. The international character of the problems and interests of workingmen throughout the world was stressed, not only by international congresses of Socialists, but also by

international organizations of the several coöperative societies and of trade-unions. Similarly, earnest advocates of democracy organized the International Parliamentary Union (1889); and agitators of woman suffrage and feminism held international women's congresses. Religion felt the general impulse: Protestant Christians of a hundred divergent creeds and of a thousand shades of individual opinion met in world congresses and made amicable agreements for the parceling out of heathen lands among their several local bodies, for missionary purposes; Catholic Christians, never forgetful of the universal traditions of their faith and their Church, instituted in 1881 a series of Eucharistic congresses, which drew large numbers of clergymen and laymen from many climes, now to Paris, now to London, now to Jerusalem, now to Montreal; even a World's Parliament of Religions was projected and actually convened. For the advancement of learning, there were periodical international conventions of distinguished physicists, chemists, biologists, historians, and economists; there were "exchange professors" between the universities of different countries; there was developing around the globe a community of intellectual interests, the product of what has been happily described as "the international mind."

Internationalism vs. Cosmopolitanism. — The popular internationalism of the last sixty years must not be confused with the ancient Roman notion of universality, of "world citizenship," of what was termed in the eighteenth century "cosmopolitanism." Cosmopolitanism carried with it a decrying of local distinctions and of patriotism; the unit of its ideal world-state was to be the individual, and not the nation. Internationalism, on the other hand, presupposes an intense loyalty of the individual to his national state, and a cherishing of his national language

and his national traditions: the internationalist would build the world state with blocks of nationalism. How recent is the growth of this internationalism may be gathered from the fact that the word itself was newly coined by Jeremy Bentham as late as 1780, and was very little used before the middle of the nineteenth century. Without self-determination of peoples in their internal and external affairs, and without full recognition of national rights, internationalism in its true sense is impossible.

Only in one sense — and that a distorted one — did internationalism signify an attack upon national patriotism. Karl Marx and his fellow apostles of modern Socialism insisted, about the middle of the nineteenth century, that social classes are of vastly greater importance than nations; that, in the ubiquitous and inevitable conflict between capital and labor, working classes in all industrial nations are arrayed against employing classes of the same nations; and that workingmen “have no country.” “Workingmen of all nations, unite! You have nothing to lose but your chains; you have a world to win!” These are the stirring words that closed the Communist Manifesto of 1848 — the gospel of revolutionary Socialism. And the “International,” which was formed at London in 1864 and constituted the first definite organization of Marxian Socialists, should have been called, with greater nicety of language, the “One-Class Cosmopolitan.” Marx’s “International,” in fact, made little headway against the rising tide of nationalism which was everywhere overflowing working classes as well as employers; and shipwreck overtook it in the tempestuous international war of 1870–1871 between France and Germany. Subsequently, the Socialists organized themselves pretty strictly as national parties; and their latest general congresses, though still

clinging to a theory of class cosmopolitanism, were in practice quite truly international.

The Concert of Europe.—Thanks to the steady growth of popular internationalism throughout the nineteenth century, the idea of a “Concert of Europe” was never wholly lost. With greater, rather than with less, repugnance did rulers and peoples view the possibility of European war, especially the possibility of war between the Great Powers. On only four brief occasions in the whole century from 1815 to 1914 were wars actually fought by the Great Powers of Europe with one another: (1) France and Great Britain, on one side, against Russia, on the other (1854–1856); (2) France and Italy against Austria (1859); (3) Prussia and Italy against Austria (1866); and (4) Prussia against France (1870–1871).

The “Concert of Europe” was always quite informal, but it performed valuable service in emphasizing interstate interests and in seeking to prevent war or to alleviate its miseries. Thus, the representatives of the Great Powers and of Turkey, assembled in the Congress of Paris (1856) to conclude the Crimean War, signed the so-called Declaration of Paris, for the protection of neutral trade in times of war, and authorized the establishment of an international commission for the regulation of navigation on the lower Danube. In 1864 the Powers signed a Convention at Geneva, in accordance with which the International Red Cross Society was organized, with branches in all European countries and with an international flag. In 1882, largely through the enthusiasm and energy of Clara Barton, the United States ratified the Geneva Convention; and later, both Turkey and Japan established local branches of the Red Cross Society, though under flags slightly modified so as to satisfy the religious scruples of their non-Christian populations.



NAPOLEON III



CAVOUR

PROMINENT MEMBERS OF THE CONGRESS OF PARIS

In 1878 the principle of the Concert of Europe was invoked in order to prevent the Russo-Turkish War from precipitating a much vaster struggle, in which Great Britain and Austria-Hungary might easily have become involved. The resulting Congress of Berlin, attended by diplomatists of the Great Powers and of Turkey, effected a rather arbitrary compromise between conflicting national interests, and assumed a sort of joint oversight of the domestic affairs of Turkey, Greece, and the Balkan States. From 1878 to 1914 the Concert of Europe managed to maintain some semblance of harmony in dealing with successive phases of the Near-Eastern Question. In 1885 Austria-Hungary was allowed to put a stop to Bulgarian aggression against Serbia. In 1897 the Great Powers arrested Turkish aggression against Greece; and at the same time Russia, Great Britain, France, and Italy coöperated to secure autonomy for Crete under their joint protection. Repeatedly the Great Powers acted together in presenting protests to the Sultan against massacres of Christians, in pressing upon him demands for internal reforms, and in collecting debts from him or obtaining economic concessions. It was under the auspices of the European Concert of Great Powers that the Balkan States drew up their treaty with Turkey at London in 1913, and that the autonomous principality of Albania was erected.

Southeastern Europe was not the only field of concerted action by the Great Powers. In Central Africa and in China the freedom of commerce of all nations was protected by agreement. Central Africa was divided, the middle part of it being erected into the mutually guaranteed Congo Free State. In China, the Great Powers, including the United States and Japan, united in an expedition which suppressed the Boxer Insurrection.

Yet the Concert of Europe at its best was no league of

free nations. It provided for no binding international organization. It possessed no general authority for the determination of disputes and for the regulation of world interests. It operated successfully only when its members found it to their individual advantage at the moment to work together. It did not even represent public opinion or popular internationalism, for it was manipulated by professional diplomatists, who, true to the customs and methods of eighteenth-century divine-right dynasts rather than to the ideals of nineteenth-century democracy, made their agreements in secret, and, at least in the case of Russia, Germany, and Austria, for dynastic considerations quite as much as for national welfare.

Pan-American Conferences. — More formally developed and more promising than the Concert of Europe was what might be described as the Concert of America. South and Central American states had had many wars, with disastrous effect on their own development and on their national credit. In 1881 James G. Blaine, United States Secretary of State, invited the several governments of Latin America to participate in a Pan-American Conference, to be held at Washington in 1882, "for the purpose of considering and discussing the methods of preventing war between the nations of America." The conference, which for a variety of reasons was delayed until the autumn of 1889, drew up a plan for the obligatory arbitration of all controversies, whatever their origin, with the single exception that it should not apply where, in the judgment of any nation involved, its national independence was imperiled; and even in this case, arbitration, though optional for the nation so judging, was to be obligatory for the adversary state. Although this plan was not generally ratified, nevertheless a second conference at Mexico City in 1901, a third at Rio de Janeiro

in 1906, and a fourth at Buenos Aires in 1910, served to accentuate the desire of all the American republics for common peaceful development, and to strengthen the sentiment of Pan-American solidarity. Two of the strongest and most stable southern republics — Argentina and Chile — concluded in 1902 a treaty of arbitration, for the settlement of all difficulties without distinction.

The Hague Conferences. — Shortly prior to the Great War of 1914, one deliberate effort was made to guarantee the peace of the whole world by general convention. It was due to the initiative of the Tsar Nicholas II, who, in his famous rescript of August, 1898, stated that he thought the hour was "very favorable for seeking, by means of international discussion, the most effectual manner of assuring to all peoples the benefits of a real and durable peace. . . . In the course of the last twenty years," the rescript added, "the preservation of peace has become an object of international policy." The existing system of excessive armaments was transforming armed peace into a crushing economic burden, which peoples had more and more difficulty in bearing. The Tsar proposed therefore that there should be an international conference, for the purpose of focusing the efforts of all states which were "sincerely seeking to make the great idea of universal peace triumph over the elements of trouble and discord."

The first conference was held at The Hague in 1899, and a second followed it in 1907: at the earlier one, twenty-six powers were represented; at the later one, there were forty-four — this time practically the whole world.

The Hague Conferences had to content themselves with providing international courts to which disputes between states *might* be submitted, and with recommending to the Powers the adoption of elaborated codes

of international behavior in the event of future war.¹ They established no league of nations and no practice of obligatory arbitration; they did not succeed even in limiting armaments. It is true that a third Hague Conference was projected for 1917, but little progress toward organized internationalism could be expected from that source so long as each state — and the government of each state — insisted stoutly upon its sovereign right to nullify the efforts of all the others to arrive at amicable agreements.

Reasons for Failure of Devices for Maintaining the Peace. — On the eve of the Great War of 1914 there were on the globe some fifty states, in theory absolutely independent, sovereign, and equal. In fact, the fifty were very unequal, and even the strongest among them would not have been strong enough to maintain its sovereignty and independence, had all the others united against it.

Chiefly responsible for this condition of affairs were, first, the inherited traditions of the seventeenth and eighteenth centuries, and, secondly, the sudden new vogue of the doctrine of nationality, which ran through the whole anarchic state-system of the nineteenth and twentieth centuries as woof through warp. Everywhere the doctrine of nationality brought forth fruits in abundance. It awakened all peoples to national self-consciousness. It inspired noble and glorious deeds. It promoted popular education. It stimulated art and literature. It should have led, not backward to Roman indifferent cosmopolitanism, but forward to twentieth-century internationalism to a confederation of all the free nations of the world for mutual coöperation and support. Hither on the

¹Supplemental to the work of the Hague Conferences should be mentioned the code of maritime law for time of war, which was drawn up by an international commission at London in 1908-1909, but was not ratified.

eve of the Great War it had not led. And this was the tragedy of nationalism.

In other words, there was in 1914 a clear incompatibility between social needs and political instruments for realizing those needs. The social needs themselves had been created within the last hundred years by the ceaseless operation of the Industrial Revolution; they were based on the simple fact of the economic interdependence of nations; they represented a world newly drawn together by the bonds of steam and electricity, a world rapidly unified in modes of living and working and traveling and thinking, a world in which, under the recent exigencies of commerce, no group of people could anywhere live apart and unto itself alone. The most pressing social needs were for the end of war and for the peaceful, just composure of differences between nations.

International Anarchy. — How pitifully inadequate were the instruments for realizing these pressing needs! Not the "Concert of Europe," not Pan-American conferences, not Hague conferences, not the "balance of power," not the "humanizing" of war, not ententes or conventions or triple alliances — not one of these devices, and not all of them together, could suffice. For every one of them was founded on the assumption that the parties to them were independent sovereign states, which had interests of their own at variance with, and superior to, the interests of mankind at large. Such an assumption, natural enough in the seventeenth century, was an anachronism in the twentieth. Yet the assumption still obtained. Trade, though in essence international, was conducted in practice on a national basis; and modern imperialism, curiously enough, was treated as an arc on the circle of exclusive nationalism. It was an absurd substitution of the wish for the fact, to refer in our day to the "system of national

states"; the phrase had come down to us from the seventeenth century, but the thing it denoted in the twentieth century was not system but lack of system — anarchy.

Just as the modern state grew out of a popular demand for the cessation of the private warfare which the feudal anarchy of the Middle Ages had entailed, so it might be imagined that the growing need of close economic coöperation in recent times would create a popular demand for the cessation of international war and of the interstate anarchy upon which international war chiefly rested. None could deny the existence of a demand for the cessation of war; but for the cessation of anarchy in international relations the popular demand was stifled by loud and hysterical appeals to seventeenth-century political shibboleths. The whole world must be appropriated by the several sovereign states. Every sovereign state must be master of its own destiny — and of the destiny of as much else as possible. Every sovereign state must arm itself and utilize every landmark in the progress of civilization in order to make new instruments of destruction. All sovereign states must be prepared to fly at each other's throats. Armed force was the ultimate appeal, and as such it was the distinguishing badge of anarchy.

It is true that armed force was comparatively little used from 1871 to 1914; its mere existence and the mere threat of its use ordinarily proved sufficient. Indirectly, if not directly, however, force and power were the final arbitrament between each two of the fifty sovereign states. And it was no euphemism that every such state was styled a "Power," and that certain states, on account of the thickness and weight of their armor and the success that customarily attended their threats, were dubbed "Great Powers." In a world like this there was little



At left, Field Marshal von Moltke, who said, "Permanent peace is a dream, and it is not even a beautiful dream. War is an element in the order of the world ordained by God. . . . Without war the world would stagnate and lose itself in materialism"; at right, Ferdinand Foch, Generalissimo of the Allied Armies and an exponent of an opposite school of warfare.

chance for international organization and security. It was international anarchy — and that was all.

Time was ripe for the squaring of political institutions with economic facts, for the adaptation of political instruments to social needs. And the Great War broke in 1914, engulfing not only Serbia and Austria, not only the Central Empires and the Triple Entente, but, because of the new unity of the globe, engulfing likewise Japan and the United States, and practically the whole world.

The immediate stakes of the Great War were the success or the failure of the attempt of one of the Great Powers, — Germany, — by dint of methods most truly and horribly anarchic, to impose its will and its *Kultur* upon Europe and upon the world. In Germany's failure could be read the handwriting on the wall, that one manner of squaring political institutions with economic facts — the manner involving the reestablishment of a kind of cosmopolitanism under a *Pax Romana Germanica* — was eternally doomed. But in the success of the temporary league of nations formed for the specific purpose of setting a limit to Germany's vaulting ambition, could be perceived a happy augury of the eventual utilization of another manner of adapting political instruments to the social needs of the whole globe.

In fact, the larger and more significant stakes of the world war were the perpetuation or the destruction of international anarchy, the failure or the success of a league of free nations.

CHAPTER III

THE MACHINERY OF INTERNATIONAL COÖPERATION DURING THE GREAT WAR

BY JOSEPH P. COTTON AND DWIGHT W. MORROW
Of the New York Bar

Need of Coöperation. — In the earlier years of the war each of the nations fighting against Germany was compelled to carry on a separate war. Great Britain, France, Russia, and, later, Italy, each with its separate military command, and its individual types of munitions, maintained its separate front. And this was true, not only of their military activities, but of their whole economic life, and also (and most important) of their systems of transport and supply, including the import of food and raw materials on which they were all so dependent. As the war went on, the lesson of coöperation was forced upon them; but not until the third and fourth years did they admit that not only all their strength, but the joint use of all their strength, was essential. And even then, a long time elapsed before it was understood.

With the increasing absorption of the people and industries of the Allied nations in the business of war on so vast a scale, they required an enormous increase of importations. And by the spring of 1917 the German submarine campaign had produced a tonnage situation so acute that, in that year and in 1918, it was possible for the Allies to import only those bare necessities which permitted them to live and carry on the war, and it became essential that every waste of tonnage should be avoided. It was that condition which finally forced organized and efficient machinery for international coöperation.

In the earlier years of the war, the help of money and ships which Great Britain gave to France and to Italy was given sporadically, as the need arose, and for the most part without defined plan. Help was given — but often at the last moment, to ward off catastrophe. The decisions as to economic coöperation between the Allies were thus often dictated by panic rather than by plan, and at times, by competition between panics. The ships which Great Britain allotted to France and Italy were operated by those countries without any general plan for the economical use of tonnage — and thus it might happen that a cargo of wheat going from the East to England might pass in the Mediterranean a cargo of wheat going from America to Italy. Neither ship need have entered that danger-zone at all. The lack of unified control of ships involved a disastrous waste of tonnage. More, since Great Britain (herself strong and free from invasion) was usually in the position of donor called on by the other Allies for aid, and was also the judge of how much could be spared from her own need, it was inevitable that there should at times have been misunderstandings between the Allied governments — on the one hand the feeling of inequality of sacrifice, on the other hand the suspicion of inequality of effort. Each of the Allies was surprisingly ignorant of the economic needs and the economic sacrifices of the others — and often underestimated both. Nor were the usual methods of communication through embassies and foreign offices well designed to avoid such misunderstanding.

To meet these conditions, and largely because of them, there was finally and gradually developed a comprehensive system and machinery for international coöperation in providing the ships and the imports. It is with that system of international coöperation in the matter of transport and supply that this paper deals.

The Wheat Executive. — The earliest conspicuous instance in which effective machinery for coöperation between the Allies was worked out was the Wheat Executive. The Wheat Executive was formed in 1917 by representatives of Great Britain, France, and Italy, sitting together in London. Its function was to make a comprehensive plan for the breadstuff supply of the Allied nations and to supervise the execution of the plan. The Wheat Executive proceeded in its work on very simple and sound lines: first, to ascertain the respective needs of the Allies, and then to ascertain and divide the available supply. The representative of each country presented the minimum cereal needs of his people, tabulating the rate of consumption, the home-production, and the deficit to be imported. This statement was criticized by the representatives of the other Allies, and, as a result, a yearly programme of importation for all the Allied countries was outlined. Then the possible sources of supply were examined and apportioned to the programme, and the deficit shared. The programme was thus established on the firm foundation of the respective needs of the Allies.

With this programme proposed by the Wheat Executive and approved by the respective governments, that body was then in a position to go to the British Ministry of Shipping and ask for an allotment of tonnage, furnishing reasons for the request which no one was in a position to refute. Where before there had been three applicants clamorous for ships, who must be appeased, each (for the sake of safety) overemphasizing his story of the dangers of starvation, there was now one request with a reasonably clear programme.

Once that programme was established, the Wheat Executive performed two other functions: it formed buying and shipping agencies in the exporting countries, which

served all the Allies without competition, and simplified the system of financial credits between the Allies and the relations of the treasuries. It also kept daily watch over the execution of its programmes, and saw that the supplies were shipped and received and the deficiencies were fairly shared.

It must not be supposed that this system, which at the end of the war controlled a large and complex business organization all over the world, was built up at once. No programme, however carefully made, could be more than a sound general guide; no system of division could work with entire fairness. But, on the whole, the Wheat Executive worked well, and for the cereal year September 1, 1917–September 1, 1918, at the time when the Allied countries were nearest to starvation and the submarine campaign was at its height, the Wheat Executive performed its function with surprising success. This success did not come because that body had broad powers; indeed, its members exercised very little direct authority. Their success seems to have come from two things: first, that in daily conference the members representing Great Britain, France, and Italy came to know and trust each other and thus to find an antidote against misunderstanding; and second, they discovered that, as usual, the difficulties of their task lay in ascertaining the facts of their problem — that once the facts were understood it was not so difficult to persuade their governments to adopt a comprehensive and sensible plan of action. The Wheat Executive was by no means the first international organization on economic matters, but it initiated the first satisfactory machinery for international coöperative action.

The United States came into the war in the early part of 1917. Its entrance made a great change in the economic relations of the Allies. Up to that time Great Britain had

given financial help very largely for the foreign purchases of France and Italy. From that time, the United States became the chief source of Allied credit, and, until the armistice, practically extended credit to all the Allies (including Great Britain) for all the food and goods which they could obtain and ship from the United States. And, coincidentally, as the submarine campaign grew more effective and the Allied shipping losses grew heavier, it became necessary for the Allies to draw always an increasing amount of their food and raw material from North America, because it was the nearest source of supply.

The entrance of the United States introduced a further complication. It soon became evident that the movement of the American Expeditionary Force to France (which the military situation made vital) would make a new and heavy drain on British shipping, and that this programme must be correlated with the other transport programmes. The general problem of transport and supply then took on entirely new phases and new seriousness, and became the most difficult problem of the war.

The Tonnage Problem.—At the end of 1917, the representatives of the Allies and the United States held the meeting now known as the Paris Conference, with the avowed object of coördinating the efforts and organizing the strength of all the nations fighting against Germany. The official report of the Conference reads in part as follows:—

The special Committee for Maritime Transport and General Imports of the Inter-Allied Conference of Paris has decided, by unanimous resolution of the delegates of the United States of America, Great Britain, Italy, and France, that it is necessary to arrange a form of coöperation between the Allies which will secure the following objects:—

(a) To make the most economical use of tonnage under the control of all the Allies;

(b) To allot that tonnage as between the different needs of the Allies in such a way as to add most to the general war-effort; and

(c) To adjust the programmes of requirements of the different Allies in such a way as to bring them within the scope of the possible carrying power of the tonnage available.

To secure these objects (the report states) a board composed of representatives of each nation, with complete power over a common pool of tonnage, was proposed, but rejected because it was thought difficult for any country (particularly for America or Great Britain) to delegate absolute power to dispose of its tonnage to a representative of an International Board "on which he might be outvoted," and also because it was thought that such a board would not tend to efficiency. The report proceeds: —

The Allies are accordingly agreed: —

(a) That America, France, Italy, and Great Britain will all tabulate and make available to each other a statement showing in detail and as nearly as possible in the same form, each class of requirements for which tonnage is needed, and, secondly, the tonnage now available and likely to be available in future through new building, etc. These requirements having been classified (showing the source of supply, etc.), and having been adjusted (1) to secure a reasonably uniform standard of adequacy, both as between classes of commodities and as between countries, and (2) to bring the total within the carrying capacity of the Allies as a whole, will form the basis on which the general allocation of tonnage will be determined. The calculation will be revised at convenient intervals, in the light of losses, new building, war-requirements, and other factors in the problem; but it will be an essential feature of the scheme that, subject to such periodical reallocation, each nation shall manage and supervise the tonnage under its control.

(b) That the neutral and internal tonnage, obtained through any channel and by whatever country, shall be used in such a way as to increase by an equal extent the tonnage in direct war-services, the extra tonnage being allotted so far as practicable to the most urgent war-need of any of the Allies. The method of allocation will be worked out later, but the principle is recognized that it is urgency of war-needs, and not the method by which the tonnage has been obtained, that is to be the criterion.

(c) That steps shall be taken to bring into war-services all possible further tonnage, such as that in South America, etc.

(d) That control over cargoes carried shall be such as to insure that they satisfy the most urgent war-needs in respect of which the tonnage has been allotted.

To carry out (a) and (b) above, allied bodies for the different main requirements for food, for munitions, and for raw materials will be formed on the model of the Wheat Executive, America being associated with these bodies.

It being necessary, in order to obtain decisions by the respective Governments, that each country shall designate one or two Ministers, — the United States one or two special delegates, — who will be responsible toward their respective Governments for the execution of the agreements arrived at, and who will meet in conference as Allied representatives, as may be necessary from time to time, whether in Paris or in London, according to the circumstances of the case, either on their own motion or at the request of the Executive Departments, it was resolved that, “for the purpose of carrying out the common policy above indicated, the appropriate Ministers in France, Italy, and Great Britain, together with representatives of America, shall take steps to secure the necessary exchange of information, and coördination of policy and effort, establishing a permanent office and staff for the purposes.”

When one remembers how gloomy the Allied cause was at the date of the Paris Conference, and the professed aim of the Conference to pool the resources of all the nations against Germany, the first reaction one gets from the

report is surprise that the Conference did not pool shipping, or at least create a unified command for ships in war-service; and particularly that the United States (which had a small percentage of the total shipping of the world), not only did not urge such a pool, but opposed it.

The Allied Maritime Transport Council and the Programme Committees. — In accordance with the action of the Paris Conference, the Allied Maritime Transport Council was formed in February, 1918. At various times thereafter, various Programme Committees, covering the whole range of imported commodities, were formed. At the time the armistice was signed, Programme Committees were functioning (some of them effectively and others in some measure), dealing with the following commodities: wool, cotton, hides and leather, tobacco, paper, timber, petroleum, flax, hemp and jute, coal and coke, cereals, oil-seeds, sugar, meats and fats, nitrates, aircraft, chemicals, explosives, non-ferrous metals, mechanical transport, and steel.

The working of these various bodies in practice was most interesting. Representatives of the Allied nations would meet and state their import requirements of a given commodity. Instead of dealing at arm's length, through Foreign Office memoranda and diplomatic channels, they sat around a table, and the representative of each nation would be in a position to criticize the demands of the others, and, in turn, to receive their criticisms of his own programme. Many of the misunderstandings which had resulted from incomplete facts were thus avoided. When the detailed programme was agreed upon, a nation was better able to curtail its requirements because of accurate knowledge of the sacrifices made by the other nations. And the astonishing feature was that, usually, agreements were reached as to the programmes. It was no small achievement that, in the fall of 1918, when shipping was

short and food certain to be scarce, the representatives of the food-controllers of Great Britain, France, and Italy (who were responsible to their people for food-shortages) agreed as to their respective share of the food which should be imported, and agreed to share further cuts to provide space to bring American soldiers to France. It was a remarkable example of how helpful the work of a fact-finding body can be, even if the power of final decision be not delegated to it.

The Allied Maritime Transport Council did not control the various Programme Committees. The Food Committees reported to the several food-controllers, and the Raw Material Committees to the Ministers of Munitions and the War Industries Board. Inasmuch, however, as ships were the limiting factor, it was essential that, when the various committees had reduced their programmes so far as in their judgment seemed possible, there must be further reduction if the total programmes exceeded the amount of transport available. This resulted in the Allied Maritime Transport Council, in 1918, receiving the programmes of all the committees, and making adjustments to bring the supplies within the carrying capacity of the ships; but in practice that meant re-routing the world's tonnage.

Moreover, it was not only the programmes of the Allied countries that were dealt with. By means of control of the sources of supply, a very real control was exercised over neutrals. An effort was made to ascertain their needs, and to see that those needs were supplied as equitably as possible, having in view the world-shortage and the conflicting needs of the Allies and of other neutrals. The control over neutral imports, and (largely) the acquisition of neutral ships for war-service, were in the hands of the Blockade Committee, with which a representative of the United States War Trade Board sat in a central coördinating

committee, which was charged with planning the blockade against Germany.

It must be constantly remembered that the representatives of the various countries on the Programme Committees and the Allied Maritime Transport Council did not have power finally to bind their respective governments. They could only recommend action; but since the decisions depended largely upon the facts, the finding of the fact tended more and more to determine the decision. Many newspaper references to the Allied Maritime Transport Council and the Programme Committees, and some books and magazine articles have given the impression that they were international bodies controlling the vital necessities of life. This is not accurate. Each nation settled its own affairs, but its manner of exercising its control was greatly affected — especially in the European countries which had been longer in the war — by the findings of the Programme Committees and the Allied Maritime Transport Council.

A few cases will illustrate the range of subjects covered by these inter-Allied bodies and the nature of their recommendations. Early in the war, as we have said, wheat from India went through the Mediterranean to England, passing on the way wheat going from the United States to Italy. Under the Wheat Executive and Programme Committees, wheat from India stopped at Italy, and the corresponding amount of wheat that would have gone from America to Italy went to England or France. This was not only a saving of ships, but an avoidance of an unnecessary submarine risk in the dangerous Western Mediterranean. During the first years of the war England's oil-supply had come in very large quantity from the oil-fields of the Far East. American oil companies had built up a large market in China, and were carrying oil from the Atlantic seaboard

to China. A re-routing, which was about to go into operation when the armistice was signed, was arranged through the Petroleum Conference, by which the American oil should go to England and the oil from the Far Eastern points should go to China. Early in 1918 Italy was desperately short of coal. Through the Transport Council an arrangement was made by which coal was sent from southern France to Italy, partly by an all-rail route, and partly by rail to Marseilles and then by ship to Italy. To take care of the coal needs of France, which would have been seriously imperiled by this diversion of coal to Italy, large shipments of Cardiff coal were sent across the Channel to the northern French ports. The March 21 (1918) drive of the Germans precipitated a very serious coal question. The principal coal supply of France was in the Pas de Calais district. The German military success reduced the output of the mines in this district and prevented the carrying of coal therefrom to the south of France, because of the interruption of traffic on the main railway line to the south. An arrangement was therefore made by which the English army got its coal from the French mines in the northern district, and English coal was sent by ships to the southerly ports of France.

The report of the Paris Conference which we have quoted, and the scheme of coöperation worked out under it, are highly significant. When one considers that, at this time, when the Allied cause was in sore straits, no country could be found which would give over to an international body complete control of its transport (not to mention command of its armies), one begins to realize how difficult international coöperation is going to be in times of peace.

Following the creation of the Maritime Council in 1918, there also came into existence other inter-Allied organizations — the Allied Food Council, the Munitions Council,

the Blockade Council, and the Finance Council (which dealt only with American purchases, but was formed before any of the others and had a longer service and tradition behind it). These bodies were functioning in 1918 with varying efficiency. Some of them were very young when the armistice came — certainly they were increasingly valuable and efficient as the end of the war approached, and played a considerable part in making possible the supplying of tonnage for the American troop-movement to France. In all of them the experience seems to have been the same — that a small international body, which sat constantly and concerned itself with the ascertainment of the facts of any situation, was of great assistance in securing intelligent joint action by the governments.

Difficulty of Coöperation. — On all these international bodies which sat in 1918 the United States was represented, and to all the principles of international coöperation with the Allies in the war the United States assented. In actual practice, however, the United States government did not accept the results of the Allied councils to anything like the same degree as the European Allies; nor can it be fairly said that the action of the United States was largely influenced by these councils, or that our government listened to their studies of the facts or their plans. The most difficult task in international action always is the learning that the representatives of other nations can ever be as high-minded or unselfish as one's self, and that task always takes time.

It is notable, again, that neither in the United States nor in Great Britain and France was there at any time effective coöperation between the military and civilian transport and supply systems. The armies of France and Italy particularly depended almost wholly on the inter-Allied organizations for imports of food (the British army

to a much smaller degree and the United States army very little), but no army got to the point of submitting its demands for general criticism, nor did any army seriously consider the general problems of waste of tonnage or supply. Thus, to the end of the war, the British navy sent some of their own coal to their ships in the Pacific at an almost unbelievable waste of tonnage, for no other reason than that the navy is sacrosanct; and every army piled up huge reserves of food and supplies which were always asserted to be essential to winning the war. Perhaps they were — certainly no one begrudged anything that might serve the fighting forces or make for their security. The purpose of the reference is not to indicate selfishness, but simply to point out that the exigencies of the Great War were never enough to drive the armies on the Western front to a common general-supply system — much less to any system of coördinating that supply with the needs of the very hard-pressed civilian populations. Toward the end of the war only, after the unified command came into being, a board of Allied army-supply first began the job of pooling supplies of all the armies in those commodities, such as forage, of which the armies were shortest. Coöperation between the quartermasters' departments brings up quite the same difficulties as coöperation between nations.

Conclusions. — But the surprising thing, to anyone familiar with the work of the international coöperative organizations during the war, was the amount which was actually accomplished by the several widely different nationalities working together in the face of appalling difficulties. It is fair to say of these organizations, which have been briefly described: —

First, that they served an important immediate purpose in getting a fair division of essential imports among the Allies and keeping them all united in the war.

Second, that they emphasized again the value of constant "common counsel," and the examination of facts in international affairs, as contrasted with the unsatisfactory form of advocacy usually known as diplomacy.

Third, that they were highly instrumental in convincing the government officials of the European Allies that the project of a league of nations gave promise of success.

Fourth, that the form of the Covenant for the League of Nations proposed by the committee of the Peace Conference was largely influenced by the experience of the inter-Allied bodies described in this chapter. This is clearly brought out in the published statements of the representatives of Great Britain and Italy in the Peace Conference; it has not been emphasized or clarified in any official statement in the United States; and many of the members of our Senate, in their discussions in the session which ended on March 4, 1919, seem to have lost sight of the fact that the main function of the Council of the proposed League is not to bind any participant by a majority vote, but to study and report on the facts, and by constant common counsel to make easier agreement for action by the nations. Only in a few exceptional cases, which are expressly stated in the proposed Covenant, can the Council, or indeed the League itself, act otherwise than by unanimous agreement. It is in its reliance on the value of the international understanding to prevent disagreement, and its significant omission of anything like an international police force which would attempt to coerce agreement, that the proposed covenant gives most promise of success. That was the chief lesson of international coöperation during the war. And it is hardly to be expected that the nations of the world at peace will find the problem of international action easier of solution than the nations fighting against Germany found it during the war.

CHAPTER IV

SOME ESSENTIALS OF A LEAGUE FOR PEACE

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ON a certain occasion John Bright, referring to the variant explanations of a measure pending in the House of Commons, recalled Addison's story of the man who did a thriving business by selling pills which were said to be very good for the earthquake. It would be a profound mistake to dismiss this story as a mere jest, since it but illustrates the universal human tendency to be fascinated by mystery, and to indulge expectations of good in inverse ratio to actual knowledge of the professed agencies by which it is to be brought about.

To-day we witness a striking example of this primitive tendency. At every turn we are accosted with the inquiry, "Are you in favor of a league of nations?" As this inquiry is made with evident seriousness, we must assume that those who make it are unconscious of the fact that an affirmative response would only betray the presence of another would-be purchaser of seismic pills. In reality, it would be as sensible to ask, Are you in favor of "alliance"? Are you in favor of "contract"? Are you in favor of "correspondence"? In a word, it would be just as sensible to inquire whether one is in favor of, or opposed to, any of the various processes by which men and nations are accustomed to conduct their relations one with another.

General Definition. — While many persons, of whom I am one, are in favor of international organization to secure the observance of law and the preservation of peace, the phrase "league of nations" bears to this question no

certain relation. In reality, it conveys, in and of itself, no definitive meaning. The word "league" is nothing but another name for an alliance. It has usually been applied to alliances of a more important or more extensive kind. Among the Greeks there were various "leagues," such as the Achæan League and the Amphictyonic League. We find the same term all through history, ancient and modern. There was the League of Cambrai and the League of Augsburg. In the sixteenth and seventeenth centuries there were several leagues called "holy"; while among the leagues of the last century, which were sometimes known by other titles, there was the celebrated Holy Alliance.

The Holy Alliance. — Because of the tendency of international combinations of power to impose their will on those outside their circle, and by resisting change, even in the internal affairs of independent states, to become the agents of reaction, the Holy Alliance is not to-day held in grateful remembrance; nor are its authors even accorded the credit due them for the benevolence of their intentions. The Holy Alliance was an outgrowth of the agonies of the wars, lasting almost a quarter of a century, which resulted from the action of the European league formed for the suppression of the Revolution in France. At the close of the great struggle which this act of intervention entailed, there was a general longing that the world might regain its tranquillity. This feeling pervaded the victors as well as the vanquished; and it induced the Emperors of Austria and Russia and the King of Prussia — the idealistic Alexander I of Russia being the moving spirit — to join in a solemn act, in which, while avowing their "fixed resolution" to take as their "sole guide" in all political relations, both internal and external, the Christian precepts of Justice, Charity, and Peace, as being "the only means of consolidating human institutions and remedying their imperfections,"

they pledged themselves on all occasions and in all places to aid each other "to protect Religion, Peace and Justice." This they were to do in the spirit of "reciprocal service," as "members of one and the same Christian nation." All powers which should choose to avow these "sacred principles" were to be "received with equal ardor and affection into this Holy Alliance." Although the King of Great Britain, because a constitutional formality stood in the way, did not personally sign the act, the British government for some years coöperated in the proceedings by which the league regulated the affairs of Europe. The restored monarchy of France was also in due time admitted to its councils and activities, and in April, 1823, discharged, as the "mandatory of Europe," the high function of invading Spain and "liberating" Ferdinand VII from constitutional trammels.

From this position to the tranquillizing of Spanish America was a natural and easy step. The views of Alexander I indeed embraced the entire world, and looked to the creation of a universal union. He therefore approached the United States on the subject of the disorders in Spanish America, commending the principle of intervention as a guaranty of peace. Great Britain, indisposed to yield the rights of trade which she had acquired in the Spanish-American countries, had given notice that she would regard any intervention in their affairs as presenting an entirely new question, on which she would take such action as her interests might require. The public response of the United States was made in the celebrated message of President Monroe of December 2, 1823, announcing what has since been known as the "Monroe Doctrine." The American people, having proclaimed the revolutionary principle that governments derive their just powers from the "consent of the governed," inevitably regarded with suspicion and

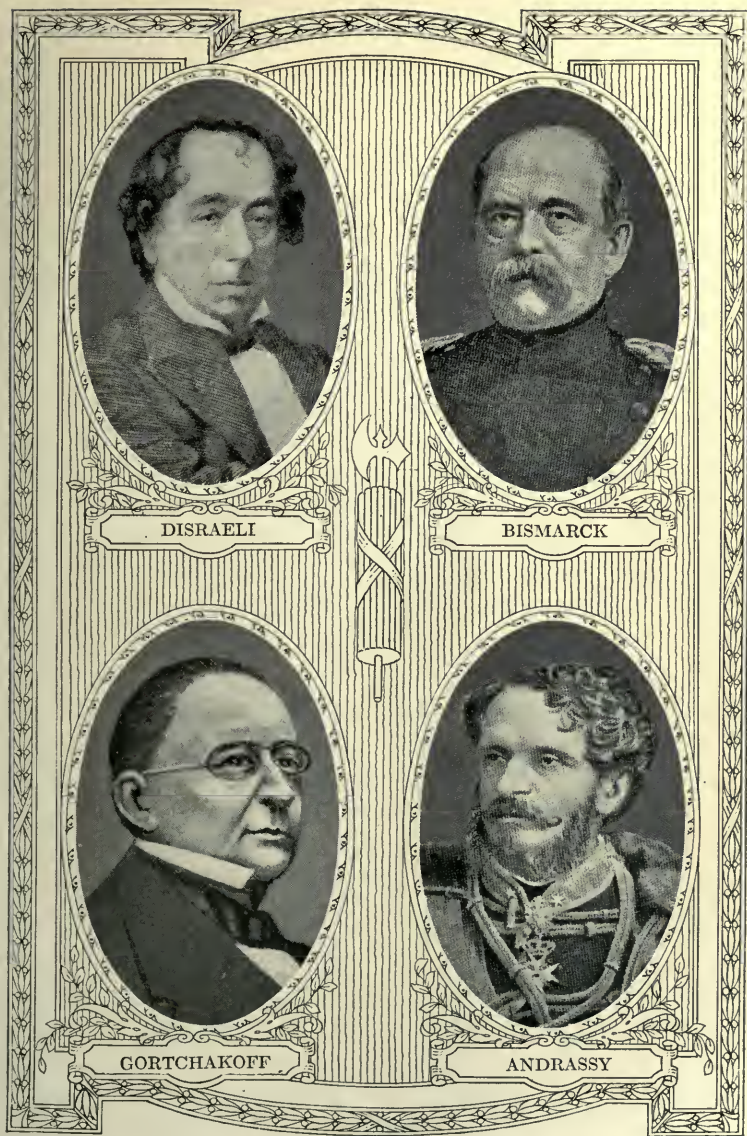
with apprehension any programme, no matter how it might be labeled, which comprehended what John Quincy Adams described as "forcible interposition to guarantee the tranquillity of all the states of which the civilized world is composed." The Government of the United States, mindful of its own recent and revolutionary origin, instinctively supported the right of every independent people to determine its own form of government. It had received in 1793 the representative of the revolutionary government in France. In 1822 it began formally to recognize the revolutionary governments in South America. It knew no distinction between governments *de facto* and governments *de jure*.

The distinctive combination known as the Holy Alliance may be said to have reached its high-water mark in the Congress of Aix-la-Chapelle of 1818. As is shown by Phillips, in "The Confederation of Europe," the Alliance was at that period "looked upon, even by British statesmen, as something more than a mere union of the Great Powers for preserving peace on the basis of the treaties." In effect, it acted, as he observes, "not only as a European representative body, but as a sort of European Supreme Court, which heard appeals and received petitions of all kinds, from sovereigns and their subjects alike." Mediatized princes, the mother of Napoleon, the people of Monaco, invoked and received its consideration. Questions of diplomatic rank, claims of succession, the suppression of the slave-trade, the right of search, complaints as to the Barbary pirates, were brought forward and dealt with; while the King of Sweden, reinforced by the King of Württemberg, protested against the "dictatorship" arrogated to themselves by the Great Powers.

The Concert of Europe. — But, while the Holy Alliance, of which Phillips somewhat censoriously speaks as "the visionary good in the pursuit of which" Alexander "had

neglected his duties to his own people," eventually fell to pieces without accomplishing the ultimate object of its chief designer, the principle of association for common action, with which it was identified, by no means perished with it. Having survived the various leagues and alliances with whose wreckage the centuries were strewn, this ancient principle later emerged in the youthful trappings of the "Concert of Europe," in which new garb the European system, based upon and regulated by treaties, and constituting a league of nations for the preservation of peace, continued to carry on its work. This system, originally embracing the Christian powers of Europe, was enlarged in 1856 by the admission of Turkey. The precise words were that the Sublime Porte was "admitted to participate in the advantages of the Public Law and Concert of Europe." Twenty-two years later, in 1878, the European structure, whose foundations several intervening wars had again seriously impaired, was remodeled by the Treaty of Berlin. But, in spite of all guaranties, the process of change, of which history is but the record, went heedlessly on.

The Hague Conferences. — In 1898 the world was startled by the invitation issued by the Tsar of Russia for a conference to consider the limitation of armaments. The result was the Peace Conference at The Hague in 1899, in which, as the invitation was delivered only to the countries diplomatically represented at St. Petersburg, the United States, China, Japan, Mexico, Persia, and Siam, were the only non-European participants. The Second Hague Conference, which was held in 1907, had the character of a world conference, all parts of the globe being represented in it and participating in its decisions and final acts. But the most notable achievement of the conferences belongs to the Conference of 1899. This was the adoption of the Convention for the Pacific Settlement of International Dis-



PROMINENT MEMBERS OF THE CONGRESS OF BERLIN

putes, under which there was set up the Permanent Court at The Hague.

The Hague Conferences did not undertake to deal with political questions. To a certain extent they undertook to formulate rules of international law, especially with reference to the conduct of war. It was hoped that a third conference would be held in 1917; but, as time wore on, the prospects became clouded. Clashes of interest occurred. Mutterings of strife were heard. Morocco became a storm-centre. Tripoli became the theatre of hostilities. Wars broke out in the Balkans. And at length there burst the great cataclysmic struggle, from whose vortex the world, bewildered, forgetful, and susceptible to desperate suggestions, has not yet fully emerged.

America's Conception of a League of Nations. — We are told that history repeats itself. This is true, although many persons seem not to believe it. But the rule would have failed if we had not seen, since the outbreak of the war in 1914, the revival and multiplication of proposals for a league of nations to prevent the recurrence of such a catastrophe. I have remarked that the phrase "league of nations" conveys in itself no definitive meaning; but I believe it may be affirmed that it connoted, at least in the United States, in the minds of many, if not most, of those who employed it, a certain and definite supposition. This was an association of all the powers of the world in a league whose chief object should be the prevention of war. It is true that it was occasionally suggested, by some of the advocates of a league to "enforce" peace, that this object would be attained by an alliance between the United States and the Entente Powers. This conception rested upon the singular assumption that, if the United States had prior to 1914 formed an alliance with Great Britain, France, and Russia, nothing would have been done by other

Powers to enlarge and consolidate the opposition. But it suffices to say that this conception of a league of nations was not that which influenced the great bulk of those who advocated a league for the preservation of peace.

By no one was this distinction more clearly drawn than by President Wilson. In his address to the Senate of January 22, 1917, on a League of Nations, he declared: —

Mere agreements may not make peace secure. It will be absolutely necessary that a force be created as a guarantor of the permanency of the settlement, so much greater than the force of any nation now engaged or any alliance hitherto formed or projected, that no nation, no probable combination of nations could face or withstand it. If the peace presently to be made is to endure, it must be a peace made secure by the organized major force of mankind.

The terms of the immediate peace agreed upon will determine whether it is a peace for which such a guaranty can be secured. The question upon which the whole future peace and policy of the world depends is this: Is the present war a struggle for a just and secure peace, or only for a new balance of power? If it be only a struggle for a new balance of power, who will guarantee, who can guarantee, the stable equilibrium of the new arrangement? Only a tranquil Europe can be a stable Europe. There must be, not a balance of power, but a community of power; not organized rivalries, but an organized common peace.

In his four cardinal points of February 11, 1918, he referred to the "game, now forever discredited, of the balance of power."

Again, in his Liberty Loan Address at New York on September 27, 1918, President Wilson was still more explicit. Speaking on that occasion of a "league of nations" as an "indispensable instrumentality" of a "secure and lasting peace," he said: —

And, as I see it, the constitution of that League of Nations and the clear definition of its objects must be a part, in a sense the most essential part, of the peace settlement itself. It cannot be formed now. If formed now, it would be merely a new alliance

confined to the nations associated against a common enemy. It is not likely that it could be formed after the settlement. It is necessary to guarantee the peace; and the peace cannot be guaranteed as an afterthought. The reason, to speak in plain terms again, why it must be guaranteed, is that there will be parties to the peace whose promises have proved untrustworthy, and means must be found in connection with the peace settlement itself to remove that source of insecurity. It would be folly to leave the guaranty to the subsequent voluntary action of the governments we have seen destroy Russia and deceive Roumania.

In view of what has been stated, it is plain that what has generally been understood by a league of nations is a world league. In any other sense the use of the phrase is essentially deceptive. If a combination of two nations, or of a certain group of nations, to the exclusion of other nations, were intended, in order that there might be set up a new balance of power, the fact should be conveyed by a proper descriptive title, for which appropriate words are not lacking. In this relation, however, we should not overlook the astute distinction, now sometimes heard, that a "preponderance" of power would not be a "balance" of power. The suggested distinction is unkind to the living and unjust to the dead. We should not ascribe to the designers of "balances" of power, either past or proposed, the imbecile intention to create only a "balance" as distinguished from a "preponderance"; nor have their performances or proposals justified such an imputation. On the contrary, the design to create a "balance" has not deterred them from loading their scale-pan with all the weights they could secure, nor have they believed that they had a "balance" till the beam inclined in their favor. They have rather conceived of a "balance" in the accountant's sense of a substantial preponderance or comfortable reserve on the credit side, which might be drawn upon for working capital.

Desirability of a League. — Now, when we come to deal with the question whether a league of nations is desirable, the answer necessarily must depend upon what the league contains and what it proposes to do. Just as an individual's freedom of action is constrained by any contract that he may make, so a nation's freedom of action is constrained by any league or alliance into which it may enter. Whether the sacrifice is desirable, or even justifiable, depends upon the nature of the object in view and the character of the engagement by which it is sought to be attained. Mere engagements, whether individual or national, are, as such, neither good nor bad. They are good or bad according to their objects and their contents. No title, no formula, can be endowed with magic force to guide the minds of men in paths of justice, tranquillity, and peace. Wars are precipitated by psychological conditions, sometimes stimulated by ambition, but in the main produced by rivalries, by misunderstandings, by injuries and oppressions, real or fancied, and by a sense of resentment.

The causes that operate to produce international wars likewise operate to produce civil wars. It is important to advert to this fact, no matter how obvious it should be, because, in discussing the question of war and peace, people seem so generally to lose sight of the circumstance that, during the hundred years succeeding the Napoleonic wars, civil wars were perhaps more frequent than international wars, covered as many years, and claimed as many victims. It is doubly important to bear these things in mind, not only in estimating the possibility of preventing war and the probable value of any particular contrivance for that purpose, but also in determining what a league of nations must comprehend in order that it may have a salutary effect.

Methods of Action. — Such a league must necessarily embrace all the methods by which tranquillity is sought to

be maintained within national boundaries. We often speak of the separation of the powers of government into three divisions, executive, legislative, and judicial. We may leave it to those so inclined to debate the question whether this distinction is always actually maintained. It suffices for the present to say that the so-called separation of powers does denote three distinct methods of action, all of which are essential to the maintenance of orderly political and social conditions. Laws need to be definitely declared, and, as the world will not stand still, they also require adjustment to changed or changing conditions. We therefore need in the international, as well as in the national, sphere the legislative function, so organized that it can produce results. Then, if we have laws, some authority must be invested with power to administer and apply them. For this it will not suffice merely to provide some functionary with a military or a police force. It is not difficult to forecast what would happen, if, in a particular country, in time of peace, the legislative and judicial organs of the government should be superseded by a small executive body, with supreme power to render decisions and an army and navy to enforce them. Unless the administration of the laws is to provoke discontent and revolution, the painstaking investigation and impartial decision which characterize the proceedings of judicial tribunals must play an important part in their enforcement.

In spite of the setting up of the Permanent Court at The Hague, I do not hesitate to affirm that there has been a tendency in recent years, perhaps somewhat due to unreasonable expectations formed of that tribunal, to belittle the judicial function as exemplified in international arbitration. This attitude is not justified by the results of arbitration where it has been tried. The main difficulty has been in inducing nations to forego the chance of gaining by arms

what they feel they are likely or sure to lose by an impartial judgment. In order to meet this difficulty, an effort has been made to supplement the Convention for the Pacific Settlement of International Disputes, of 1899, under which the resort to arbitration is wholly voluntary, with treaties making the resort to arbitration compulsive. But the effort cannot be said to have been successful. Most of the treaties concluded for the purpose, by reason of their express exclusions, left nothing of serious importance within the scope of the obligation. Thus, while they added nothing to the practical efficiency of the system, they lowered the standard and discredited the process in the public estimation. On the other hand, treaties of a more adequate type in notable instances failed to be ratified. It follows that, in any league for the preservation of peace, the judicial method of settling disputes remains to be dealt with in a comprehensive and effective way.

Nor is the process of conciliation to be neglected, including good offices and mediation, and the impartial examination, by appropriate tribunals, of the causes of controversy. This last purpose the clauses of The Hague Convention relating to international courts of inquiry, as well as the so-called Bryan treaties, often erroneously described as unlimited treaties of arbitration, were designed to subserve.

Preponderant Force as a Deterrent. — When we come to the mere combination of power, to be exerted in concert through diplomatic and military agencies, the European system, from which the United States has heretofore held aloof, furnishes a long and ample experience. The part which force plays in the affairs of the world is a much mooted question; and it is evident that opinions differ as to the extent to which force can be relied upon for the preservation of peace. From the fact that, when armed conflicts take place, the issue will be decided by the strongest bat-

talions, the inference is often drawn that in the last analysis the world is governed by force. But, even granting this inference in the very terms in which it is stated, it by no means follows that, because preponderant force will end a war, it can be relied upon to insure peace.

Such a conclusion involves more than one vaulting assumption. One of these is that men in the mass, constituting a great nation, can be controlled with the same promptitude and effectiveness with which an individual, charged with a violation of law, can be arrested in the street and brought to justice. The futility of such a supposition is remarkably demonstrated by what took place in Europe during the twenty-five years that succeeded the French Revolution. In 1793 France, then threatened with a shortage of food, was confronted with practically a united Europe, with the world's greatest maritime power at the head of the coalition. And yet, with the exception of the brief respite following the peace of Amiens, the war continued twenty-two years, and in the end France emerged from the conflict with her boundaries scarcely diminished. This example, which is not incapable of repetition, may be commended to those who imagine that the affairs of great nations, internal as well as external, can be peacefully regulated by leagues or alliances, redeemed or unredeemed by the prefix "holy."

Another such assumption is the supposition, quite unfounded in human experience, that a people, laboring under a sense of grievance, will be deterred by a disparity of numbers and of force from incurring the hazards of a conflict. All history teaches the contrary. On this point the lessons furnished by America are peculiarly impressive. The patriots of 1776 took a desperate chance, and won; the leaders in the movement for secession took a chance apparently less desperate, and lost.

Effect of Change on a League. — Again, history teaches that all human combinations are subject to mutation. This is peculiarly so, where the constituents are not united by common interests and inspired by common ideals and aspirations. One of the gravest dangers that any association of nations must always encounter is the tendency to divide into groups, and to form balances of power, based on particular interests and sympathies which are held paramount to the general interest. An impression indeed seems now to prevail that the balance of power is an artificial contrivance employed to defeat the instinct of concert among nations. The truth is precisely the reverse. Balance of power is the instinctive measure; concert is the artificial contrivance employed to counteract that instinct. What is called the balance of power is merely a manifestation of the primitive instinct of "self-defense," which so often manifests itself in aggression. The man who boasted that he had taken part in eighteen wars and fought twenty-seven duels, "all, suh, in self-defense," though no doubt sensitive, probably was sincere. The defensive instinct tends to produce combinations in all the affairs of life and in all human relations. It operates within nations as well as between nations. The Civil War in the United States was the result of a contest over the balance of power. Nor has the principle since ceased to operate in the United States. The fact is notorious that certain sections of the country have, during the past generation, constantly found themselves in general relations of mutual support because of a continuing common interest in a single question.

Fortunately, such combinations in internal politics, where the ballot exists, normally, though by no means always, seek to gain their ends by that peaceful agency; but if the ballot is not available, they readily resort to the bayonet. Combinations for a "balance" or "preponder-

ance" of power in the international sphere primarily typify, on the other hand, the thought of "bayonets first," and, constituting a challenge to the rest of the world, provoke counter-combinations of power looking to the eventual and inevitable conflict. It is evident that, if an organization for peace is to break this monotonous round, it can do so only by being fairly representative of the entire world, and by providing for the adjustment of relations and the settlement of differences by methods which inspire confidence in their disinterestedness and impartiality. We accept it as axiomatic that no man is fit to be the sole judge of his own cause. The man who seeks so to act impeaches his sense of justice, if not the integrity of his motives. The axiom is no less applicable to nations, whether singly or in combination.

Determining Responsibility for War. — Another problem — if not indeed the most serious one — with which a union of nations for the preservation of peace must deal, is that of determining the responsibility for armed conflicts. It is much to be deprecated that recent events have tended to create the hasty impression that, when war breaks out, it will always be clear which one of the parties began it. This supposition betrays a lack both of perspective and of familiarity with the origin of wars.

Ward, in his "Law of Nations," narrates how, in 1292, two sailors, the one Norman, the other English, quarreled in the port of Bayonne and began to fight with their fists. In the affray one stabbed the other. The fight spread to the ships of the two countries in the harbor, then to the high seas, and, continuing to grow till it involved the two governments, resulted in the war which, by the loss of Guienne, entailed upon the English and the Normans the train of hostilities which eventuated in the Hundred Years' War.

Passing over many intervening outbreaks, the uncer-

tainties of which yet remain to be dispelled, we may recur to the situation in 1762, when Spain and France, assembling their forces on Spanish territory, demanded that Portugal join them in their war with Great Britain. They justified their action by alleging, with some show of reason, that Portugal had not observed neutrality in the war. Portugal, acting in self-defense, declared war against them, and by so doing no doubt gained an advantage. In 1793, France declared war against Great Britain; but even English historians are by no means agreed that her action in so doing was not essentially defensive. The fact is well known that France in 1870 declared war against Prussia. The conflict was precipitated by the Hohenzollern candidacy for the Spanish throne and the supposed insult to the French Ambassador at Ems. France, upon the face of the record, was the aggressor. Twenty years later the world learned that the Hohenzollern candidacy was originally suggested to Spain by Bismarck, and also became acquainted with the circumstances attending the preparation of the version of the Ems incident which carried the French parliament off its feet.

On October 26, 1827, a combination of the naval forces of England, France, and Russia destroyed the Turkish fleet in the harbor of Navarino. The first actual shot appears to have been fired by the Turks, but English naval writers have candidly admitted that the Ottoman commander was not unjustified in believing that he was repelling an attack. Possibly he was; the allied fleet called it a "reconnaissance." Subsequently the Tsar declared war against the Sultan. France and England remained, as an English historian has remarked, "idle spectators." But the war had momentous consequences in the affairs of the Orient, and was inspired by rivalries which have not yet ceased to exist.

President Madison, in 1812, declared that Great Britain was at war with the United States while the United States was at peace with Great Britain, and called upon Congress to redress the balance. Congress promptly responded. Ten years later, Albert Gallatin, who had been Madison's Secretary of the Treasury, discovered in the French archives documents which led him to avow the belief that, if the truth had been known, the United States would never have entered upon the course that resulted in the war. President Polk, in May, 1846, declared that war existed by the act of Mexico, and Congress accepted his declaration; but there has always been a profound difference of opinion in the United States upon the question whether this view was justified. This difference is due to the fact that the title to the territory where the first armed collision took place was in dispute. If the territory belonged to Mexico, its occupation by the United States forces was an act of invasion; if the territory belonged to Texas, the Mexican attack upon those forces was an act of aggression. The insertion in the treaty of 1848, by which the war was ended, of a stipulation to the effect that, if differences should in future arise, neither republic should resort to "reprisals, aggression, or hostility of any kind" against the other, without having maturely considered whether the difference should not be arbitrated, has not prevented the recurrence of incidents whose merits are by no means clear.

The outbreak of war between China and Japan in 1894 presents striking analogies to that between the United States and Mexico in 1846. The answer to the question whether certain initial acts, such as the sinking of the Kow-shing, had an aggressively hostile character, depends upon the solution of disputed claims as to what was at the time the status of Korea.

The examples that have been cited suffice to demon-

strate how extravagant and groundless is the assumption that nations in general could be expected to hold together in attacking a particular nation, on the mere allegation from some quarter that it had "begun" hostilities. They further serve to show that, in many instances, the only proper course would be to seek to compel both parties to suspend hostilities. In private law, we should hardly undertake to justify a policeman who made it a rule, when a fight occurred, to side with the party whom he believed to be in the right and help him kill his adversary. Such an innovation in domestic jurisprudence would be truly startling. It can hardly work satisfactorily in the international sphere.

The Limitation of Armaments.—The question of the limitation of armaments, in all its vast and complicated ramifications, I will not now undertake extensively to examine. Although the Peace Conference of 1899 was originally convoked by the Tsar solely for its consideration, yet it was almost the only subject related to war which the Conference sedulously avoided. As some nations suddenly grow shy when the "freedom of the seas" is mentioned, so others suddenly balk when the regulation of activities on land is proposed. Nevertheless, it will not do to say that the subject lies wholly outside the realm of practical statesmanship. The mutual prohibition, for more than a hundred years, of naval armaments on the Great Lakes proves the contrary, and, together with the unfortified state of the land frontier, bears eloquent testimony to the tranquillizing influence of abstention from menace. Perhaps it may be said that the fundamental principle in such arrangements is that of mutuality. The mere absence of armaments will not ensure peace, nor will their mere existence provoke war. On the other hand, rivalry in armaments necessarily excites apprehension, apprehension

begets fear, and fear breeds hatred. In the relative adjustment of forces with a view to a fair equilibrium, many and diverse elements must be taken into account. The question cannot be solved in a day or by one stroke, nor can the creation of new "balances" of power be regarded as a step toward its solution.

Difficulty of the Problems.—In the formulation of plans for the preservation of peace, all the complicated elements with which the present survey has dealt must be taken into account. They can no more be neglected in the external than in the internal affairs of states. Mere alliance will not suffice. There must be organization of such character and extent as to gratify the desires, reconcile the ambitions, and settle the specific disputes of peoples, so that their attitude toward international order and internal order may be substantially the same.

Hence it is that while, for the preservation of peace, all devices such as international conferences, arbitration, mediation, and good offices are or may be useful, according to the circumstances of the case, back of all this we must, in the last analysis, rely upon the cultivation of a mental attitude which will lead men to think first of amicable processes rather than of war, when differences arise. To this end it will be necessary to rid the mind of exaggerated but old and widely prevalent notions as to the functions and mission of the state, of superstitions as to "trial by battle," of the conceptions that underlie the law of conquest, and of the delusion that one's own motives are always higher, purer, and more disinterested than those of other persons, to say nothing of the passion for uniformity that denies the right to be different.

CHAPTER V

THE LEAGUE OF NATIONS AND THE NATIONAL STATE

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The Political Issue of the Great War. — Almost immediately upon the outbreak of the European War, it was evident that the conflict was one of political ideals and that its outcome would determine the future of widely different and irreconcilable conceptions of the state, of the rights of peoples, and of international relations. What the Prussian philosophy was — the doctrines of Hegel, manifested in an autocratic governmental system, preached by an apostolic succession of historians, and popularized in their military aspects by Bernhardt — came to be known through scores of books and articles. The Allies were fighting a philosophy which glorified the state, put it above all moral restraints, subordinated the individual to this personality which could do no wrong, scrupled at nothing to achieve success for its military machine, and sought *Weltmacht oder Niedergang*.

Against Germany's vision of a vast *Mittel-Europa*, formed and ruled by might, the Allies set up the ideal of a league of nations, and the two widely different conceptions had this in common: they indicated that the national state was not the final type of political organization. A world state was impossible; separate identities could not thus be merged, and the utmost attainable was a coöperative league of free nations to remove the causes of war, and to enforce the settlement of international disputes by peaceable means rather than by the arbitrament of the sword.

The Solution: the League of Nations. — The Covenant agreed to at Paris, whether or no it is a success, is a great achievement. Its acceptance, nevertheless, is accompanied by certain political anomalies. The mere fact that a world federation has been dreamed of by many philosophers and by some statesmen would seem to indicate that the national state has not been a satisfactory ideal. During the past century there has been a remarkable and important phenomenon, — the rise of nationalism, — and the victorious Allies are pledged to allow oppressed peoples the right of self-determination and, if they desire, separate political existence. The League of Nations and many small, new states are born together; and the coming of the former shows the inadequacy of the nation state to preserve peace. Is this a contradiction? Does it make the success of the League doubtful? Should nationalities be given toleration in great federations like the British Commonwealth, instead of separate statehood?

Yet at the same time that this query is raised, the argument is made that limitations on national sovereignty, which a league involves, may be too high a price to pay for international peace. International restraints are proposed at a moment when the state's municipal activities are being greatly expanded; and in each case the quest is against unchecked individualism and for authority resting on a popular basis. Others are skeptical of the League because they wish to see a thoroughgoing revolution in accepted political philosophy. Their solutions are widely at variance with each other. Have they anything to offer in a discussion of international peace? Will the recognition of other forms of human association as commensurate in dignity and importance with the state, or the creation of an industrial democracy, do away with war? Certain of these political problems may properly be

outlined and oriented as an introduction to an analysis of the machinery to be used, or the specific problems involved, in the attempt to preserve the peace of the world.

I. THE NATIONAL STATE AND FEDERAL UNIONS

History affords no warrant for believing that either the simple or the composite state is the final type of political organization. One tendency in the development of a type of state, or political organism, to fit modern conditions, has, however, been constant. States are becoming fewer, and are controlling more territory; and not only that — even the greater states are bound together by economic and political alliances. Improved means of communication, economic interdependence, the world-wide search for raw materials, and the development of colonial and tropical dependencies, have in part been responsible for this phenomenon. In a modern world absolute isolation is impossible.

The Principle of Nationality: Difficulties and Advantages of its Application. — The principle of nationality as the basis of political organization is decidedly modern; it scarcely goes back so far as the French Revolution. Without tracing the history of the principle or discussing the validity of various claims made in its name, it may be said that in a sense the present struggle has carried the principles of the French Revolution to their logical completion, and that the Allied Powers are pledged to secure their success. Writing at the beginning of the war, Émile Boutroux, the philosopher, remarked that the Declaration of 1789 proclaimed, "as also had America, that men are born free and equal in their rights and that they continue so. The French theory of nationality consists in extending to nations that which, in this maxim, is now affirmed of

individuals." More than a century, and a series of bloody wars, have been necessary for the fruition of this principle, but without exception the powers meeting at Paris agree that, in Mr. Wilson's phrase, "all well-defined national aspirations shall be accorded the utmost [possible] satisfaction." Out of the ruins of Russia alone no less than nine new states may rise, based on this principle: Armenia, Esthonia, Finland, Georgia, Lettonia, Lithuania, Poland, Turkestan, and the Ukraine. The boundaries of Bohemia and Jugo-Slavia are among the most difficult problems confronting the Conference, and are fraught with the seeds of future wars. This is a triumph of the national principle, but it is at variance with the political development of the world.

Now the increase in the number of nation-states, though accepted for the purposes of the peace treaty, does not go unchallenged, and even when it is approved, its limitations must be recognized. As the basis of authority in the state, the national principle is inadequate; it does not imply collective consent, or justice, or democracy. There is a grave danger that minorities will be tyrannized, and that there will exist the impulse to expand and conquer. To admit this is not to go so far as certain writers, who would, as I have said, deny the principle altogether. Lord Acton, for example, in "The History of Freedom, and Other Essays," branded the theory of nationality as "more absurd and more criminal than the theory of socialism." Like Lord Acton, Mr. Zimmern believes that "the co-existence of several nations under the same state is a test as well as the best security of its freedom"; and, in "Nationality and Government," he declares that "all forward-looking men who desire better international relations and a better political organization of the world must set their hope, not in the Nation State which is only a stage, and in the West

an outworn stage, in the political evolution of mankind, but in a State which, like the great governing religious systems of the past, like mediæval Christendom and Islam, find room for all sorts and conditions of communities and nations. . . . It is useless," he says, "to dream of making Europe a federal commonwealth till the separate units of the potential federation are themselves commonwealths." Not the principle of nationality, but the principle of toleration of different nationalities, is necessary.

To some of these views assent must be given. It is perfectly true that the path to internationalism through small states is dangerous and uncertain; but, paradoxical as it may seem, internationalism can rest only on satisfied nationalism. The sentiment is intractable and compelling, and cannot be removed from politics unless it is recognized; peoples whose aspirations have long been thwarted will not be satisfied with anything short of self-determination. It is true that, ideally, the best solution would be to apply the principle of federation, of tolerance; but such a proposal overlooks two vital facts: first, that self-determination in many cases would not decide in favor of a federal commonwealth — the experience of the small nationalities in the composite states of Russia, Germany, and Austria-Hungary has been such that they desire a separate existence; and secondly, that the ideals of liberty, justice, and toleration are not accepted so universally as to make it certain that they would be at the basis of the new federated commonwealths. It is to be hoped that nation states will grow into federal unions, for these obviously reduce the possibilities of war. The fewer the states in the world, the fewer and simpler the issues and the possibilities of friction. International law depends for its validity upon the agreement of sovereign states, and it will continue to be weak in

proportion to the number of states whose agreement is necessary.

We are forced, therefore, to accept the anomaly of an increase in the number of nation states, at the same time that we are attempting, by an international league, to lay a stable basis for the federation of the world. Treitschke objected to small states, on the ground that "weakness is the most reprehensible and the most contemptible" political sin; but apart from this callous indictment there are, as I have said, many drawbacks to an increase in the number of less powerful members of the international community. Economic exploitation is more insidious, more frequent, and in many cases more disastrous than avowed conquest: it leads to political results which are fatal to the small state, or which break the peace of the world. The new states which are to be created in Europe will be isolated and jealous of each other; they will be easy prey for military or economic aggression; but without this insecure preliminary no Central European federation is possible, for it cannot be achieved by the powers meeting at Versailles.

On the other hand, it should be recognized that small states have distinct values. They offer a field for varied treatment and for political experiment; and it may be maintained, as has been done by Mr. H. A. L. Fisher in his little pamphlet on "The Value of Small States," that "almost everything which is most precious in our civilization has come from small states — the Old Testament, the Homeric poems, the Attic and the Elizabethan drama, the art of the Italian Renaissance, the common law of England. Nobody needs to be told what humanity owes to Athens, Florence, Geneva, or Weimar."

If these benefits come from the creation of new, small states — and it is indisputable that the suppression of

nationalities has stifled artistic expression and political development — the world will rejoice. But at the same time it must be recognized that the scourge of war is made more probable by the increase in the number of members of the League of Nations. This inconsistency, while regrettable, is inevitable, for it is an obstinate fact that internationalism, the goal now striven for, must rest on national self-determination, and hope may be derived from two facts: the constant tendency in the past has been for states to coalesce and to create larger political units which maintain peace throughout their borders, and the League of Nations has come into being to prevent friction and to supply to small states an organization to which they can appeal against the oppression of the powerful.

II. SOVEREIGNTY AND A LEAGUE OF NATIONS

National Sovereignty and the League. — A fundamental principle, and at the same time a chief achievement of a league of nations is that in order to do away with war it imposes restraints upon the freedom of its members. To this, objection is made. "Sovereign princes and States will hereby become not sovereign, a thing they will never endure," wrote William Penn in his "Essay towards the Present and Future Peace of Europe." "But this also, under correction, is a mistake, for they remain as sovereign at home as they ever were"; and "if this be called a lessening of their power, it must be only because the great fish can no longer eat up the little ones and that each sovereignty is equally defended from injuries and disabled from committing them." "No State," wrote Treitschke, "is entitled to renounce that egotism which belongs to sovereignty." "As far as the sovereignty of the States cannot be reconciled to the happiness of the people, the voice of every good citizen must be, Let the former be sacrificed to

the latter." So wrote Madison in "The Federalist," and the world must accept the views of the gentle Penn and Madison rather than those of Treitschke.

An obvious answer to the argument that sovereign rights cannot be curtailed is the advocacy of a nebulous covenant which would be little more than a pious *væu*. Given a will to preserve peace, it is said, elaborate machinery is not necessary and there will be no limitation on sovereignty; without peaceful intentions the machinery, no matter how well constructed, will not function successfully. But one in favor of a covenant like that adopted by the Peace Conference is not necessarily impaled on one of the horns of the dilemma, for it is an absolute lesson of history that the desire for peace which now, owing to the exhausted and broken world, is keener than ever, will not alone suffice; and it is equally true that, while machinery may break down, the will for peace is more likely to prevail if it is supported by treaty obligations. Machinery of international government there must be; and for it to have any chance of keeping the peace, the covenant must impose limitations on sovereignty. This has been generally recognized by the chief advocates of a league of nations;¹ on the other hand, uncompromising opposition to such a league because no

¹ It is essential to the foundation of the League of Nations "that the Governments and peoples of the States willing to found it understand clearly that it will impose some limitations upon the national action of each, and may entail some inconvenient obligation. Smaller and weaker nations will have rights that must be respected and upheld by the League. Stronger nations must forego the right in any dispute to resort to force before other methods of settlement by conference, conciliation, or if need be arbitration, have been tried. This is the limitation. The obligation is that, if any nation will not observe this limitation upon its national actions, if it breaks the agreement which is the basis of the league, rejects all peaceful methods of settlement, and resorts to force against another nation, they must one and all use their combined force against it." Viscount Grey in "The League of Nations," p. 10 (*International Conciliation*, October, 1918).

state would consent to have its sovereignty limited, while perhaps most familiar to Americans from arguments in the United States Senate, is by no means confined to that body, and the argument requires a brief consideration.

So far as international affairs are concerned, there is no common political superior. Every state binds itself by treaties and yet remains completely sovereign, and the League of Nations Covenant is nothing more than a treaty. Carried to its logical conclusion, the argument that international organization should not be permitted to impair national sovereignty would prevent any inter-state relations; and a mere enumeration of some of the agreements which have been entered into, both before and during the war, will be sufficient to show that the adoption of the Covenant simply means the extension of an old and accepted, rather than the establishment of a new, principle.

Limitation of Sovereignty by International Agreements. — The ordinary commercial treaty, with a "most-favored-nation" clause, is perhaps the most frequent and the most extreme example of how a state may limit its action and yet remain sovereign. Powers entering such an agreement pledge themselves — frequently without time-limit — not to discriminate in favor of a third state against the other contracting parties. If such an agreement is negotiated by the United States, the power of Congress to levy taxes is interfered with; yet no one ever maintains that Congress is no longer sovereign or that the treaty is unconstitutional. And so with a great variety of other international undertakings. In 1817 the United States agreed with Great Britain to limit the naval forces of the two countries on the Great Lakes. The treaty took away the right of Congress to determine what armament it would have on the Great Lakes. Again, according to the Executive's interpretation of the Hay-Pauncefote Treaty, the

United States has no power to grant to American vessels exemption from the Panama Canal tolls. Congress, at Mr. Wilson's request, repealed the statute which had discriminated in favor of our coast marine; the powers of the legislature had been limited by the treaty-making authority, but there was no question of sovereignty.

A small volume would be required to consider all the agreements which take away national freedom of action. The Hague Conventions imposed hundreds of more or less important limitations. Five powers voluntarily renounced their right to make war on Belgium, and the world cried out when Germany tore up the treaty; but since 1839 there has been no question of the sovereignty of the signatory states. Other treaties have neutralized territory, with the same obligations on the signatory powers. By Article IX of the Treaty of Utrecht, France undertook to demolish the fortifications of Dunkirk and remained bound until the Treaty of Versailles in 1783; but this limitation of armament and denial of the right of fortification did not entail any loss of sovereignty. Napoleon limited Prussia's right of self-defense when it was provided, in 1808, that she should not have an army of more than 42,000 men; and while the undertaking was evaded, there was no intimation that Prussia ceased to be independent. The whole question, furthermore, is complicated and shown to be unimportant, by the fact that certain small states exist as wards of large, guardian states, and the political writers are in a never-ending dispute as to whether these states are sovereign, independent, protected, semi-sovereign, under suzerainty, and so on.

But perhaps the best illustrations are the agreements that the United States has negotiated with practically every nation in the world to provide for a peaceable settlement of international disputes. These arbitration treaties

promise to submit all differences, except those involving national honor or vital interests, to judicial determination; but the so-called Bryan treaties pledge the United States never to go to war without first having the difference thoroughly investigated. They provide for an international commission, to which will be submitted all disputes, of whatever nature, between the two countries; the Commission must report on the facts within a year, and during this time, the contracting parties agree not to declare war or to commit any hostile act. Some of the treaties include a provision by which armaments may not be increased, pending the investigation of the Commission, except on account of an emergency unconnected with the dispute which has been submitted. But in its minimum form, providing for a year's delay before war could be begun, Mr. Bryan's principle has been accepted by the great majority of the nations of the world; and so far as these are concerned, the power of Congress to declare war is taken away until after the report of the Commission. These treaties pledge the good faith of the nation, just as the League Covenant will; and the latter differs from the former in degree, not in principle. To be sure, Congress does have the legal right to declare war after the expiration of a year; but under the Bryan treaties this right has to be exercised independently. Under the League Covenant, there is the assurance of coöperative action by the law-abiding and liberty-loving powers against a state which refuses to submit a dispute or refuses to abide by the decision of the Court or Council. This is an immense safeguard, and is sufficient compensation for the loss of the power to declare war. In both cases — under the Bryan treaties and under the League Covenant — there is the "cooling off" period which, it is anticipated, will of itself be a most potent factor in preventing war. But as a member

of the League of Nations, the United States does not stand alone; under the Bryan treaties, it is isolated, and in this provision for concerted action is to be found the justification for the renunciation by Congress of its right to declare war, except in accordance with the provisions of the League Covenant. It had already relinquished its right to declare war, pending the report of the Commission of Investigation, and without any such safeguard.

International Coöperation During the War. — But a much more convincing precedent for restrictions on national freedom of action is to be found in the supra-state organization of the political, economic, and military enterprises of the Allies during the war. America gave up a large measure of her freedom of action to win the war. Why should she not limit her freedom of action to preserve peace? Public opinion accepted joint military command for the armies of the Allies; the lives of two million Americans were controlled by Marshal Foch, and that was a far greater denial of the sovereign powers of the American President and Congress than would be involved in any programme for the limitation of armaments that may be recommended by the Council of the League of Nations. Shipping, raw materials, munitions, finances, were all supervised by Inter-Allied bodies.

“Each national group in the Conference of Paris represented a sovereign power; but, by its very presence there, it denoted a growing sense in every nation that only a certain voluntary curtailment of the sovereign right of each nation can avail to equip the common cause with the means of victory. We have already ‘pooled our honour.’ The Pact of London was the first of a series of acts by which the voluntary surrender of sovereignty began. We are now pooling our resources . . . and their magnitude is impres-

sive. It suggests to the imaginative mind the true equipment of a League of Peace, and will probably be found to supersede the idea of making military force the chief weapon of such a body. The Paris Conference of to-day commands nearly all the great food-growing areas of the world: it controls the whole supply of vital raw materials from the Tropics: it holds the submarine cable communications of the world: its greatest cities are the financial capitals of the world: and it commands the sea. The body of a League of Nations is there: but it lacks the breath of life which only the moral resolve of its constituent nations can give."

So wrote *The New Europe* (February 28, 1918) before the great German offensive demanded unity in every phase of the war's operations. Victory has made possible the moral resolve of the Allies. Peace can be won and in the winning of it there will be no sacrifices, no limitations on sovereignty, at all comparable to those that were cheerfully endured to win the war. Such a price is not too great to pay for a Society of Nations and for a lasting peace.

III. POLITICAL PHILOSOPHY AND A LEAGUE OF NATIONS

Necessity for a New State Philosophy.—A mere league of nations, without a reconstruction of the states which compose it, will not, however, guarantee international peace. Most Americans do not realize the simple truth that, when Germany declared war against France and Russia, she lighted the fires of revolution. The world is in flux; the problems of reconstruction are as difficult, as compelling, and as important as the issues over which millions of men have fought. No matter what the terms of the peace treaty, no matter whether the League of Nations promises to be successful, there will be peace without victory unless reconstruction leads to freedom. International peace is dependent upon the maintenance of

national order; and if we would preserve the state, we must at least consent to a thoroughgoing reconstruction of national life, not only to do justice to the individual, but to make international peace possible.

The democratic state, however, must be the instrument through which reconstruction will come; and the immediate duty is to make it as perfect an instrument as is possible for the achievement of individual freedom and international peace. The latter ideal is possible only if it is agreed that the basis of the democratic state is not force, but the dedication of its citizens to advance the welfare of one another. States are separate, but humanity is one. National egotism must be abandoned; moral principles must always guide political action; generosity must take the place of selfishness and fair-dealing the place of trickery: in a word, there must be a change of heart. All this is perhaps utopian, but interstate coöperation now exists in the great federal states of the world. The British Commonwealth affords an inspiring vision of what will be possible if international relations are based on freedom and justice. Without attacking the internal sovereignty of the state, without advocating a divided allegiance — whether between the state and a group or between the state and humanity — it will be possible to develop a common will which will make possible a federation of the world. The Allies had this common will during the war; there is no reason why they cannot continue it during the peace. It has frequently been said that the United States is now the moral arbiter of the world. May we always be true to this high calling and lead in the progress toward a new philosophy of the national state which will make possible a successful league of nations.

CHAPTER VI

THE LEAGUE OF NATIONS

ITS ORGANIZATION AND OPERATION

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THE organization of a league of nations will naturally depend upon the functions it is expected to perform; and in accordance with an obvious law of all organisms, whether natural or social, the more in quantity and the greater in variety the functions, the more complex the organs must be. In this chapter the simplest form of organization will be considered; because the organs of the simplest form furnish the essential basis of all more complex forms; because, in attempting to consider the more highly developed forms, it would be necessary to describe a number of alternative devices adapted to different types of activity — a proceeding that would involve elaborate discussion; and finally, because the Peace Conference at Paris has, in fact, proposed a distinctly simple form.

I. FUNCTIONS OF A LEAGUE OF NATIONS

Primary Function: to Prevent War. — All plans for a league of nations aim at the prevention of war, and, in order to consider the simplest case, it may be well to assume that this is the main purpose of such a league, treating other things as ancillary to that object. And here we may observe that, in trying a novel social experiment, it is wise to disturb the existing traditions and habits as little as possible, in order to raise the fewest objections to its acceptance and to reduce the friction

with customary practice to a minimum. In a league of nations this means interfering with national independence and autonomy as little as may be consistent with attaining the end in view. There is another reason for this policy. The more a league touches the sphere of political activity, the more it clashes with differences of national character and institutions, and the greater the difficulty of framing a uniform system applicable to all the members of the League.

1. **By Arbitration.**— Since the functions determine the organs that are to give effect to them, we must begin by considering the functions of the League. Assuming that the primary object is to prevent war, it is clear that some other method of settling disputes must be substituted for a resort to arms. So far as possible, justice must take the place of force, as it does within all civilized communities. In fact, one may say that the administration of justice is the foundation of law and order in every well-governed country. In a highly civilized community, the rights and duties of the citizens are regulated by laws which can be readily applied by judicial tribunals; but on account of the imperfect state of international law, this is much less the case in the relations between independent nations. Still, their relations are to no small extent dependent upon principles which are capable of accurate determination. It is true of rights arising from treaties, which can be construed judicially like other contracts. It is true of a considerable body of international law, which is in theory, at least, universally recognized as morally binding upon nations, and can be the subject of judicial treatment. It is true, also, whenever a case depends entirely upon a question of fact capable of decision by an examination of the evidence. Matters of this kind have been termed justiciable, that is, susceptible of judicial determination.

Much has been done by voluntary agreements between nations in the last half-century to promote the decision of such questions by arbitration of a judicial character. But it is not questions of this kind that commonly provoke a resort to arms. Although, of the dozen wars since 1850, some involved justiciable questions, it is safe to say that in no case — except, perhaps, that of our Cuban war, which followed the destruction of the *Maine* in the harbor of Havana — was a justiciable question the real cause of the conflict. Wars arise mainly from divergencies of national interests and policy, which may often be reconciled, adjusted, compromised, or suppressed by a process of conciliation or arbitration, but not by judicial decision on legal grounds. Such dissensions are political in their nature, and must be dealt with on grounds of international fair-dealing and expediency.

Having established some process of deciding justiciable questions and of adjusting political ones, nations involved in a dispute must resort to these methods of settling it, or they are fruitless. When both countries prefer arbitration to war, there is no difficulty; but when one of them prefers to fight, and thinks itself sure of victory, it may not want to submit the case to arbitration, and must be compelled to do so. An agreement to submit such cases is not enough, because it may be treated by a treacherous state as a scrap of paper, if no penalty is attached to a violation of the covenant. If there is no compulsion, we are left much as we were five years ago, with no effective guaranty of peace; and this last war has taught us what that means. The resort to arbitration in some form must be compulsory, under a penalty which no nation, however strong and self-confident, will venture to face. The question is not one of seeking a fair penalty for the offense, or the proper redress for an injury inflicted, but

of a deterrent that must be absolute. The object is not retribution but prevention. Therefore, the greater and the more certain the penalty, the stronger its deterrent effect, and the less the probability of its use. If it is great and certain enough it will never be used.

Penalties for Refusing to Arbitrate. — (a) *Economic.* Two kinds of penalties for going to war without submitting a dispute to arbitration have been advocated, one economic and the other military. The former consists in cutting off all commercial relations or other intercourse with the offending state by all the members of the League. It is similar to a pacific blockade of a maritime country, and is supposed to exert a pressure strong enough to constrain any people to submit. In the case of a small country, and especially one dependent upon the outside world for supplies, it would, no doubt, prove effective; but with a large and powerful nation carefully prepared for war and expecting a rapid success, the result is by no means so clear. The prospect of a general commercial boycott would probably not have deterred Germany from beginning this war. Moreover, pacific non-intercourse is hard to maintain with a large country. In this, it is something like an embargo. Many interests in the nation that sets it up are injured, and there is not the passion of war to sustain it. One may add that, in the present close trade-connections all over the world, it is extremely likely to bring in its train friction that results in actual warfare.

(b) *Military.* The other kind of penalty is military, consisting of a defensive alliance among the members of the League, a covenant that an attack, before arbitration, upon any one of them shall be treated as an attack upon all the rest, who thus stand together. If the League is large and powerful enough, such a pact would be an absolute deterrent which no nation, however strong and

well-prepared, would willingly face; and in fact, if Germany had known that an ultimatum to Russia would have brought her into immediate war also with France, England, Italy, the United States, and Japan, it is certain that she would not have ventured on hostilities.

How far a nation shall be under any obligation, and, still more, how far it shall be compelled, to comply with the decision of a justiciable question, or with the award on a dispute of a political character, raises very difficult questions. Probably men would be ready to exert some pressure in this direction, but are not prepared for compulsion in all cases. One can easily imagine occasions where there is so much difference of opinion among outsiders about conflicting claims between two nations, that it would be unwise to attempt to enforce compliance with the opinion of a mere majority of arbitrators. No serious person believes that it is possible at the present stage of the world to prevent all wars; and hence, after a case has been submitted to arbitration, there may still be a possibility of strife. A people may be so inflamed that they are unwilling to accept the settlement recommended by the League, and may refuse to comply with it until after a struggle. But wars will be vastly reduced, and the few that occur can be strictly limited in extent, until they tend gradually to disappear.

2. By Removing Causes of Dispute. — Finally, the prevention of war must be accomplished, not merely by the settlement of disputes after they have arisen, but also by foreseeing causes of trouble and removing them before they have reached an acute stage. Hence there must be methods of consultation among the members of the League, for the interchange of points of view, for agreement on a common policy, and, not least of all, for the expansion, precision, and codification of the rules of international law which are at present far too uncertain and incomplete.

II. FORMS OF A LEAGUE OF NATIONS

Delegated and Automatic. — The organs of the simplest form of a league of nations are determined by these functions; but before discussing them in detail, it is necessary to consider the two possible forms of league by which the functions may be performed. They may be termed the delegated and the automatic forms. The former is copied from the system in organized states, where the relations of a man to his fellow citizens are so many, so complex, and so liable to constant changes with the progress of social conditions, that they must be regulated by laws made from time to time without his personal consent. The enactment of such laws is, therefore, delegated to a representative body, or legislature, whose action is binding on the individual. In the same manner a league of nations may be formed, with a representative body whose directions the nations agree to obey; and to that extent they delegate to this body an authority to which they bind themselves to submit.

The automatic form is more simple, more primitive, but not ill-adapted to sovereign states whose duties to the League are so few that they can be specifically enumerated in a covenant. It consists in prescribing definitely the obligations which the members assume, or will assume on the happening of a certain event, and giving no authority to any representative body to exercise its discretion in issuing orders binding upon them. Suppose, for example, that a nation declares war on any member of the League: under the delegated form the representative body would meet, discuss the situation, determine the action to be taken by the members of the League, and issue its directions accordingly; while under the automatic form, all the members of the League would be under an immediate

obligation to perform the acts prescribed in the agreement, such as to cut off all intercourse with the offending state, to come in arms to the defense of the member attacked, or whatever the provision of the agreement for such a case might be, and they would do so without waiting for, and without regard to, any action by a representative body of the League.

The distinction between the delegated and automatic forms of league seems for many people very hard to grasp. They often speak as if the latter involved merely vague promises which the members were under no real obligation to fulfill; and therefore they regard this form of league as an inferior guaranty to the other. But, in fact, precisely the opposite is true. This can be made clear by an illustration from business life. A bank, when offered a note indorsed by honest and responsible men, does not hesitate to discount it, because the obligation of the indorsers is fixed; their liability to pay is automatic, arising at once on the failure of the maker to pay the note. The indorsers do not agree to pay if so directed by a committee of their number, but, jointly and severally, to pay absolutely; nor has any such committee authority to demand or release payment. Moreover, the indorsers, if honest men, pay without regard to compulsion by suit at law. If, on the other hand, the bank were offered the note with a conditional guaranty by the same men that, in case the note were not paid at maturity, a committee of their number should meet and decide what should be done, and that, if the committee so directed, they would pay the note, the bank would regard such a guaranty as no security worth having. In the same way a joint and several agreement by the members of a league of nations, to coerce a state that made war on any of them, would be a better and more forcible guaranty than an agreement to

do so if ordered by a representative body created by them. It is no doubt true that such an obligation to coerce the offending country is, like every other obligation of a sovereign state, a moral one; but so is an obligation to comply with the directions of the representative body. Yet it is also true that honorable nations can be relied upon to fulfill their treaties, even when at the moment they are burdensome, as has been shown in this war. Free nations can be trusted to do what they have freely undertaken.

Advantages of the Automatic Form. — The automatic form of league has, therefore, the advantage that it provides a more effective guaranty of peace. Such a compact to combine for armed resistance in case of an attack on any one member would certainly have prevented Germany from making this war; whereas the delegated form of league might not have done so. Deliberation is often a slow process, and Germany might well have thought that, by the time a result had been reached, she would be able to meet it by a *fait accompli*; for she believed that victory against France would be achieved in a few months. Moreover, she might hope that one member of the League, being unprepared, would urge delay, while another, more remote, would argue against a general war; and at last nothing would be done.

Another advantage of the automatic form is that the obligations of the members are specifically stated, so that they know precisely what duties they assume under any conditions that may arise; while the delegated form leaves their obligations uncertain, to be determined at some future time by a representative body which may go farther or less far than some of the members desire. Vigorous objection has been made in the United States to partnership in a league that would have authority to order this country what to do in case of an attack against

another member of the League. The objection is not without cogency; but it does not apply to the Covenant of Paris, either in its original or its amended form; for that Covenant has adopted as its basic principle the automatic type of league, fixing the obligations of the members and the sanctions for violation in the pact itself, instead of leaving them to be determined by a representative body. The Council of the League is, indeed, at liberty, and even enjoined, to advise or recommend further action by the members; but this each member undertakes only if it chooses so to do. The language is in that respect perfectly clear and consistent, unless we are to construe such words as "advise," "propose," and "recommend," in a sense quite contrary to their ordinary meaning.

III. ORGANS OF THE LEAGUE

Judicial. — (a) *Courts.* Whether the form of a league is automatic or delegated need not greatly affect the organs by which its functions are performed. First in order come the organs for the settlement of disputes. Experience has taught us the wisdom of having questions of positive law — what are termed in international relations justiciable questions — decided by a judicial body, which, so far as is humanly possible, shall be impartial, rather than by one in which motives of expediency, self-interest, or politics have more play. The members selected should be judges, or lawyers of eminence, of known character and probity, who have not been concerned in the case, and who therefore are not officers of the nations involved, and preferably not of any nation. The Permanent Court of The Hague, and, still better, the Court of Arbitral Justice projected at the Second Hague Conference, are good examples of the kind of tribunal required.

(b) *Councils of Conciliation.* For dissensions which are not strictly legal in their nature, but involve matters of national interest or policy, a different kind of arbitral organ is needed. Such questions should be referred to a body as fair and unbiased as may be, but which will take into account the political circumstances of the case. Its business is not to decide cases on purely legal grounds, but to bring about an accord based in part on expediency; and it ought not to be a purely legal, but to some extent a political body, whose members are not judges, but statesmen familiar with the political stresses and strains in international life.

What Disputes Should Be Referred to Each? — These two classes of questions had better not be confused, but each referred to the body most appropriate for its consideration; there arises, however, a difficulty in deciding whether a question is justiciable or not. One of the parties may well claim that an act performed, or threatened, by the other, while not strictly a breach of international law, is one which affects its vital interests or security; and that to submit the question to a tribunal to decide on purely legal grounds is to abandon its claim. If Turkey, for example, had proposed, before the war, to transfer to Germany a tract of land near the Suez Canal, England would have had no legal right to prevent it; but it would have been an act to which she would have been justified in objecting, and her objection would have been sustained in an international council, although not by a court of law. In Anglo-Saxon countries, where courts are in the habit of deciding questions of their own jurisdiction, it would seem natural to authorize the judicial tribunal of the League to decide whether a question is justiciable or not; but on the Continent of Europe the ordinary courts of law have, as a rule, no such power. In those countries

there are habitually two classes of courts: one to decide questions of private law between citizens, and the other to decide cases in which the duties of administrative officials, or the interests of the government, are involved. When a difference of opinion on the question of jurisdiction arises between these courts, it is decided by a Court of Conflicts, composed of members drawn from both. If a nation does not suffer its own courts of law to determine their jurisdiction, one can hardly expect that it would allow an international tribunal to do so.

It is probably for this reason that the Covenant of Paris, while making plans for a judicial tribunal and setting up a Council of statesmen, does not provide that all justiciable questions shall be submitted to the first and all other matters to the second, but allows any state to claim in effect that the question is not justiciable, and to require its reference to the Council. This is not the best arrangement conceivable, but it is far better than having no method of settling disputes except military force.

Another provision of the Covenant of Paris which is perhaps not the best conceivable, is that the Council intrusted with the duty of conciliation in the case of disputes is the same body which acts as the Council of the League for the purpose of consultation upon all political problems and of recommending administrative, and even military, action by the members of the League. This combination of semi-judicial and quasi-administrative functions in the same hands is contrary to almost all the non-official programmes for a league of nations. It seems a reversion to an earlier form of civilization, when a monarch was at the head of the army and the state, and also administered justice in person. No doubt a separation of these two functions is better; but, on the other hand, in a league of nations which is rudimentary, and attempts only

to do what is needful, there is a certain merit in simplicity and in the imitation of primitive forms of organization.

Representative Bodies. — The functions of a league of nations include, as already pointed out, not only the settlement of disputes after they have arisen, but also the removing of causes of dissension before they have become acute. For this purpose representative bodies are required. It is not essential that they should have compulsory powers, and, in fact, in the automatic form of league they certainly would not have them; but consultative functions they must have, and these are not without effect. International congresses in Europe have often settled questions that might otherwise have led to armed conflict; and, indeed, they have never failed to avert war. No doubt they have not succeeded in doing so if some large nation has been determined to fight; but in such a case they would not have met, since they have hitherto been held only by universal consent; and Germany was unwilling to have such a congress meet in 1914. To prevent war, there must be both compulsory arbitration of disputes and obligatory meetings of representative bodies for consultation.

Of representative bodies there had better be two, one large and the other small. The reason is the same as for having in a free nation a large legislature and a small executive, a parliament and a cabinet. The larger assembly gives an opportunity for the representation of many points of view, of many diverse interests, so that no considerable element of the people is without a spokesman. In a league of nations it has a similar effect, the larger body making possible the representation of every member of the League, however small. But a large body cannot act quickly, and is not well fitted for reaching a unanimous opinion by the mutual concession and compromise which

are as essential to harmony and success in such a league, as in a cabinet or executive committee. Since in a small body all the members of a large league cannot have seats, some states must be left out; and it is clear that the presence of the large nations is the most important, because on them the responsibility must mainly fall in peace and war, and because their mutual confidence is the strongest guaranty of enduring coöperation. There is also good sense in their presence, from the fact that the large nations touch the world at many points, the smaller ones at less. Thus England, France, and the United States have a broader outlook than Roumania or Bolivia, which see a comparatively narrow part of the interests of mankind, and have a more local vision.

In the Covenant of Paris all the members of the League are represented in the larger body, called the Assembly, and all have an equal vote there — save that for a decision upon a dispute, unanimity of the members represented on the Council is required. But it must be remembered that, the form of the League being automatic, the functions of its organs are almost wholly consultative, and hence votes are far less important than if there were authority to take action binding upon the members. In the smaller body, or Council, only nine states have seats: the five great powers being always represented, while the four others are to be selected from among the other states by the Assembly from time to time.

Method of Appointment.—The Covenant wisely leaves the method of appointing the representatives to the states themselves; but, as there has been some difference of opinion on that point among the advocates of a league in this country, it may not be out of place to discuss it briefly.

The Council of the League is intrusted with the function of recommending to the members sundry things in addi-

tion to those which by the Covenant they specifically and automatically undertake to do. Many of these will involve immediate action, and therefore it is important that the representatives should, so far as possible, be in a position to speak for their respective governments. For example, one of the Balkan States, let us say, pursues, or allows its citizens to pursue, a course of conduct which does not amount to a hostile act, but is highly and properly offensive to a neighbor and likely to lead to a breach of the public peace. The question arises: what representations, if any, shall be made to the two states by the members of the League acting in concert. Clearly, a discussion by people who could not speak with authority for their nations would not attain the end desired. In such a case the Council must be in effect a meeting of the governments of the members of the League, not a debating society for the expression of every variety of divergent opinion. That is, indeed, one of the chief reasons for including in the Council the representatives of the powerful nations, whose opinions cannot fail to carry weight with the states that are fomenting trouble.

To some extent the principle applies to all the work of the Council. Its functions being merely to make recommendations, these are far more likely to be accepted by a nation if prepared by the official representatives of its own government, than if by spokesmen of a minority, or by any other men who do not act under the directions of the political authority of the nation; and that must continue to be the case so long as the League is an alliance of independent states seeking to promote harmony of action, and not a common government for the peoples included in those states. Mr. Root's suggestion that the American members of the Council be appointed and confirmed like ambassadors is wise, since that is in effect the position they are to hold.

This applies much less to the Assembly, which, with its very restricted functions, is intended to be a conference for discussion, and will serve its most useful purpose in ventilating the opinions of all mankind. Here again, however, it would be better not to have any rigid system of representing different parties in the nation, but to leave the matter to be determined in each case according to the class of questions likely to arise. If, for example, this body should undertake a revision of international law, it would be highly expedient to select jurists learned in that subject, without much regard to party; and the same thing is true of other matters requiring technical knowledge of economic or social questions.

Additional Organs of the League.—The remaining organs of such a league need not detain us long. It will need commissions to collect information, to supervise, and in some cases to administer, affairs of common interest. The Covenant of Paris contemplates especially armament, the trade in arms, the conditions of labor, and responsibility for inexperienced or backward peoples released from the domination of the vanquished foe. Then there are the agencies of international utility, such as the Postal Union and the constantly growing list of other matters placed by treaty under international commissions. It is certainly a convenience to have these under one central authority responsible for their efficient administration.

Finally, there must be a large amount of correspondence carried on, and voluminous records kept, which will require a secretariat; and to secure orderly continuity in this office, it is desirable to have the chief secretary and his subordinates permanent, selected preferably from the smaller, and traditionally neutral, countries.

One of the objects sought by the advocates of better

international relations is the elimination of secret treaties; and, in fact, a league of nations implies that every member will deal fairly and openly with all the rest. But this cannot happen if some of them are to make secret engagements unknown to the others; and hence a league should provide for the registration and publication of all treaties as a condition of their validity.

Adequacy of the League Proposed. — Such a league as is herein described does not create a very close combination. It embodies only the minimum necessary to make an effective alliance for the prevention of war, and it is in substance the plan set forth in the Covenant of Paris; but it is probably as close as it is wise or possible to attempt at this time. People who desire to go further sometimes point out that the Articles of Confederation were a failure because they did not go far enough, and had to be replaced by the closer relations embodied in the Constitution of the United States. That is true, and yet the Articles of Confederation were the best that could be attained at the time, and were much better than nothing. If they had not been adopted, it is improbable that the Constitution could ever have been framed; nor were they adopted, nor could they have been, as a deliberate step toward a still closer union. World federation, or anything resembling it, is, at this stage of the world's progress, a matter for purely academic discussion. The future can be trusted to take care of itself if we do the right thing now.

CHAPTER VII

INTERNATIONAL SANCTIONS AND THE LIMITATION OF ARMAMENTS

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Meaning of Sanction. — If the League of Nations succeeds, it will be because its acts and orders rest on *authority* such as earlier plans of international organization have lacked. In other words, the League's decrees must have sanction. What do we mean by sanction? In general, the term denotes power of enforcement. The laws made by Congress have a sanction in the power of the executive and judicial branches of the Federal Government to punish persons who ignore or violate them. On the other hand, most parts of international law have lacked sanction, because the duty of nations to render obedience to them has been moral rather than legal, and because, speaking broadly, there has been no superior authority which could inflict a penalty for disobedience.

The Need of Sanctions. — The reasons why a league of nations, to be of actual service to the world, must have sanction, are not difficult to discover. The first relates to the conditions under which the League must itself arise. No nation can be expected to stake its vital interests and rights on a scheme of arbitration and conciliation, unless it sees that there will be means of making other nations, more aggressive and less scrupulous than itself, feel the binding force of their treaty obligations. Unless the nations have confidence that there is a power somewhere that can be depended upon to compel their competitors to play the game according to the rules, they will feel obliged, as

of old, to keep up individual preparedness and to meet aggression with aggression; and under these circumstances they will seek, not membership in a general league of nations, but alliances of the old type with individual states. The inherent weakness of the Hague Conventions was that they were not supported by any international organization having the power to give them effect.

In the second place, after the League is once established, it can be kept alive and strong only if the means exist of putting pressure on a recalcitrant member. It may as well be recognized that nations will enter the combination with various motives, and perhaps in some cases with mental reservations; and it is by no means inconceivable that some strong state, acting either on impulse or on calculation, will seek to evade its obligations, in order to work its will upon some other state against which it has a grievance. An unruly member of the League might thus refuse to accept an award of arbitration, or refuse to lay before a council of conciliation a question which it is unwilling to submit to arbitration, or resort to arms while the investigation was still going on. If a state is to be free to do these things with impunity, the League will never be more than a rope of sand. Stability and permanence can be attained only if the rules and decisions of the League are strongly supported by sanctions.

What Sanctions are Possible? — Three sanctions suggest themselves: (1) public opinion, (2) economic boycott, and (3) armed force. Public opinion is always an asset when order is to be kept and law enforced; the experience of self-governing peoples is that law can hardly be enforced at all unless it commands public support. Public opinion alone, however, is rarely or never enough. No state trusts to the enlightened self-interest, the feeling of moral obligation, the sense of community responsibility, of its

citizens, to ensure proper respect for its authority; rather, every state backs up these excellent agencies with policemen and sheriffs and prosecuting attorneys and courts and penitentiaries, and even with armed troops. In the international field, moral restraints have been tried and found wanting; that is, they have been found inadequate to prevent war and to ensure justice when acting alone, where interests which governments regard as vital are involved. Long lists of instances could be cited in which, prior to 1914, the most solemn agreements among nations were violated, often with an accompaniment of war; and, as an English writer has said, "The experience of the war-period, with all its wreckage of treaty rights and international laws and conventions, has definitely weakened the current faith in the plighted word of nations and in the compelling or restraining force of international public opinion." To be effective, an international organization must rest on something more than paper promises; like any other form of human association, it must have power to compel its members to fulfill their obligations under the rules that it has laid down.

Sanctions Suggested in Proposed Plans for a League of Nations. — Of the numerous plans for a league of nations drawn up in earlier centuries, practically all made provision for a coercive force to be employed against recalcitrant member-states. Even William Penn, in his "Essay towards the Present and Future Peace of Europe," proposed that, after a Great Diet of the nations should have been set up, if any state should refuse to submit to the judgment of this body and should resort to war, all the other states should fall upon it with their armies and bring it back to the path of rectitude. Quaker though he was, Penn would have war to prevent war. It is, however, of greater present importance to take note of the sanctions

suggested in the principal plans for a league published since 1914, and especially to consider the provisions on this subject contained in the proposed Covenant of the League of Nations, adopted by the Peace Conference at Paris, April 28, 1919.

1. *The Fabian Society's Plan.* This scheme of international organization was worked out with very great care, some three years ago, by the English socialist organization named. It provides for a legislative International Council, and for a permanent judicial tribunal known as an International High Court; and it seeks to cover every possible contingency of disobedience to the League's authority. If, in any case that comes before it, the Court finds a state guilty of a breach of international obligation, it may assess the compensation or damages to be paid, and may in addition impose a fine. If the wrong-doer fails to meet these terms, the Court may decree execution, which will take the form of a complete cessation of intercourse with the recalcitrant by any or all of the member-states, according as the Court shall order; all relations through trade, travel, general business, and even postal and telegraphic communication are to be suspended, and the Court may order a blockade of the offender's entire coastline. Finally, if any state against which such action is being taken declares war or commits any act of aggression against a state which is dutifully carrying out the orders of the Court, all the remaining states shall make common cause with the state or states so attacked, and shall use naval and military force to protect such state or states, and to execute the orders of the Court by any warlike operations that may be deemed necessary for the purpose.

2. *General Smuts's Plan.* It is commonly recognized that the ideas of this South African statesman and military leader have been almost if not quite as influential at

Paris as those of President Wilson. In the plan for a league of nations which he reduced to writing during the peace deliberations, he argued powerfully for the abolition of compulsory military service; for the limitation of the armed forces of member-states to such numbers of militia or volunteers as should be fixed by the Council of the League; for regulation by the Council of the amount of military equipment and armament of these states; and for nationalization of the manufacture of munitions, with full powers of inspection in officers of the Council — all this with a view to lessening the temptation of member-states to evade or defy the rules of the League.

But sole dependence is not to be placed on these precautions. "Without an effective sanction," General Smuts goes on to say, "the League will remain a pious aspiration or a dead letter." The sanction which he proposes is twofold, economic and military. "If any member of the League breaks its covenant . . . it shall *ipso facto* become at war with all the other members of the League, which shall subject it to complete economic and financial boycott." As is evidenced by the experience of Germany during the late war, this sort of treatment is bound to be of very great effect. None the less, in Smuts's opinion, the boycott and non-intercourse will not meet all requirements, if unsupported by military and naval action. The members of the League must be obligated to use armed force, in such amount and at such times as the Council shall determine.

3. *The French Plan.* France was not among the first powers to give official support to the idea of a league of nations. Her attitude, however, was rather one of caution than of opposition, and her representatives ultimately gave assent to the Covenant adopted by the Peace Conference in February. A plan for a league, worked out by Senator Léon Bourgeois and Baron d'Estournelles de

Constant, and presented by them to Premier Clemenceau, provides for compulsory arbitration without limitation or exception, for limitation of armaments, for the establishment of a council of administration, and for the application of a fourfold sanction, as follows: (1) diplomatic, involving severance of diplomatic relations with a recalcitrant power; (2) juridical, involving the closing of the courts of all member-states against an offender; (3) economic, taking the familiar form of the boycott; and (4) military, involving the establishment either of an international army and fleet, or of international control over all or part of the armed forces of the several member-states. The French publicists long held out for a strictly international armed force, separate from and superior to the armed forces of the individual states; but they could win little support for the plan, and eventually it was given up.

4. *The German Plan.* A plan drawn up by the German Society of International Law and submitted to the provisional German Government early in 1919 provides that military and naval expenditure by the member-states shall be so restricted as not to exceed twenty-five per cent of their respective army and navy estimates for the year 1909, and forbids declarations of war save with the consent of the parliaments of the nations concerned. Sanctions are supplied in the form of compulsory measures, executed under the direction of the Executive Committee of the League, as follows: (1) imposition of an indemnity; (2) severance of diplomatic relations; (3) trade and business boycott; (4) confiscation of ships; and, in the last resort, (5) military compulsion.

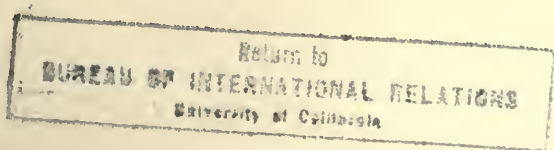
5. *Plan of the League to Enforce Peace.* This earliest of organizations formed in the United States to propagate the idea of a league of nations placed in its programme,

adopted at Philadelphia in 1915, and supplemented by the platform of November 23, 1918, provisions for the reference of every justiciable dispute, — that is, a point of international law or the meaning of a clause in a treaty, — not settled by negotiation, to a court of arbitration; and of every non-justiciable dispute, — that is, a matter of national policy or national honor, — not found otherwise adjustable, to a council of conciliation; and for conferences from time to time, in which the signatory powers shall formulate and codify rules of international law. To the end that the actions of the League shall not lack sanction, it is further stipulated that the signatory powers “shall jointly use forthwith both their economic and military forces against any one of their number that goes to war, or commits acts of hostility, against another of the signatories before any question arising shall have been submitted” to the proper authority.

6. *Plan of the League of Free Nations Association.* This more recently formed American organization, whose Statement of Principles was published late in 1918, differs from the League to Enforce Peace in its emphasis upon equality of economic opportunity and in some other respects, but it is no less outspoken upon the necessity of definite sanctions. “The effective sanction of the association [of nations],” it says, “should be not only the combined military power of the whole used as an instrument of repression, but also such use of the world-wide control of economic resources as would make it more advantageous for a state to become and remain a member of the association and to coöperate with it, than to challenge it.” “The League,” it is further asserted, “should not be, in the first stage, a proposal to relinquish arms, but to combine them; it should be an agreement upon the methods by which they can be used in common for common security.

The League of Nations is not an alternative to the use of force, but the organization of force to the end that it may be effective for our common protection."

7. *The Paris Covenant.* On the subject of sanctions these several plans reveal a striking unanimity: all agree that public opinion and moral obligation are not enough; all provide for economic pressure backed up by military force. The Covenant of the League of Nations, adopted by the Peace Conference in April, is drawn upon similar lines. First, it imposes upon the member-states the following fundamental obligations: to submit all justiciable disputes to a court of arbitration; to carry out in good faith the award of any such tribunal; to submit non-justiciable questions to the Council of the League; and to give any assistance needed to ensure the full enforcement of a resulting recommendation, provided the report has been unanimously agreed to by the members of the Council other than the parties to the dispute. Then come the sanctions, which are both economic and military. Should any state refuse to fulfill the obligations mentioned, it shall, *ipso facto*, be deemed to have committed an act of war against all the other members of the League. In such a case the other members shall forthwith place the recalcitrant under an economic boycott, and shall cut off all intercourse with it, not only on their own part, but on the part of non-member-states as well. Furthermore, the Council shall determine what effective military and naval force shall be contributed by each member with a view to protecting the League's covenants, and "these limits, *when adopted*, shall not be exceeded without the permission of the Council." The plan provides for a reduction of armaments, but only to "the lowest point consistent with national safety and the enforcement by common action of international obligations"; and it falls to the Council,



both to formulate plans for this partial disarmament, and to determine what equipment and armament is fair and reasonable for each nation, in proportion to the scale of forces put into operation.

This résumé of plans raises a number of interesting questions. What is the value of the economic boycott, and how far can it be trusted to secure obedience to the League's authority? What would be the status of armaments in the new world order, if no league of nations were to be established? On what general lines shall armed force be organized and controlled by the League? How far shall the regulatory authority of the League be carried?

The Economic Sanction — Effectiveness and Limitations of the Boycott. — The economic boycott is undoubtedly a weapon of paralyzing power, especially when accompanied by complete cessation of intercourse. No nation to-day lives, or can live, to itself alone; the interests and activities of even a small state ramify in a hundred directions. "If," says an English writer, "all diplomatic intercourse were withdrawn; if the international postal and telegraphic systems were closed to a public lawbreaker; if all interstate railway trains stopped at his frontiers; if no foreign ships entered his ports, and ships carrying his flag were excluded from every foreign port; if all coaling stations were closed to him; if no acts of sale or purchase were permitted to him in the outside world — if such a political and commercial boycott were seriously threatened, what country could long stand out against it?" It is, however, not inconceivable that a strong nation of aggressive tendencies might undertake to carry out some great stroke before the weight of such public reprobation was seriously felt, and that it might even successfully defy the efforts of other states to drive it from its course by

economic pressure. The boycott, unsupported by armed force, has certain serious limitations.

In the first place, it hits back at the nation that applies it. Its use involves at least temporary loss of trade, interruption of business, and other kinds of inconvenience all around; so that, unless many nations are bound by solemn agreement to act concertedly in a given situation, it is very likely that none will act at all. In the second place, the boycott will have less effect upon a nation that is relatively self-sustaining than upon one that is absolutely dependent upon the outside world for the necessities of life. The United States, or China, could withstand the pressure of a boycott longer than Great Britain or Belgium. Finally, there is the practical difficulty of enforcing a boycott as against the purely private interests which can be depended upon to seek with all possible ingenuity to carry on an intercourse to which inflated profits attach. Moreover, as legislation would be necessary in each state to enforce the boycott, these interests could be depended upon to promote delay. It should also not be forgotten, that only the police ships of each nation could interfere with the merchant ships of that nation; and they might not always be available.

The Military Sanction — Necessity and Organization.

— The conclusion is that, however highly the potentialities of the boycott be estimated, the element of armed force as an ultimate sanction cannot be dispensed with. Such force would be needed, in any event, to repel invasions and curb dangerous disorders among outsiders; but its main function must be to enable the League to cope with lawless and disruptive elements within. The question that confronts us, therefore, is not whether we are to continue to have armed forces on land and sea, but how these forces are to be organized and controlled. Are they, as hereto-

GROWTH OF MILITARY AND NAVAL EXPENDITURES 1872-1912*

INCREASE FOR ARMIES

<i>Country</i>	<i>1872</i>	<i>1912</i>	<i>Increase</i>	<i>Percentage of Increase Based on 1872</i>
Austria-Hungary.....	\$ 45,679,000	\$115,381,000	\$ 69,702,000	153
France.....	83,183,000	177,656,000	94,473,000	114
Germany.....	65,731,000	201,003,000	135,272,000	206
Great Britain.....	77,246,000	134,850,000	57,604,000	75
Italy.....	35,362,000	83,284,000	47,922,000	135
Russia.....	104,474,000	289,911,000	185,437,000	177
United States.....	35,372,000	107,787,000	72,415,000	204
Totals.....	\$447,047,000	\$1,109,872,000	\$662,825,000	148

INCREASE FOR NAVIES

<i>Country</i>	<i>1872</i>	<i>1912</i>	<i>Increase</i>	<i>Percentage of Increase Based on 1872</i>
Austria-Hungary.....	\$ 5,402,000	\$ 15,176,000	\$ 9,774,000	181
France.....	27,890,000	81,693,000	53,803,000	193
Germany.....	6,093,000	111,964,000	105,871,000	1737
Great Britain.....	48,215,000	216,194,000	167,979,000	348
Italy.....	8,609,000	41,859,000	33,250,000	386
Russia.....	13,856,000	81,960,000	68,104,000	491
United States.....	21,250,000	136,390,000	115,140,000	541
Totals.....	\$131,315,000	\$685,236,000	\$553,921,000	422

INCREASE FOR ARMIES AND NAVIES COMBINED

<i>Country</i>	<i>1872</i>	<i>1912</i>	<i>Increase</i>	<i>Percentage of Increase Based on 1872</i>
Austria-Hungary.....	\$ 51,081,000	\$130,557,000	\$ 79,476,000	155
France.....	111,073,000	259,349,000	148,276,000	133
Germany.....	71,824,000	312,967,000	241,143,000	335
Great Britain.....	125,461,000	351,044,000	225,583,000	180
Italy.....	43,971,000	125,143,000	81,172,000	185
Russia.....	118,330,000	371,871,000	253,541,000	214
United States.....	56,621,000	244,177,000	187,556,000	331
Totals.....	\$578,361,000	\$1,795,108,000	\$1,216,747,000	210

PROPORTION OF TOTAL MILITARY CHARGE TO TOTAL EXPENDITURES, 1912-13†

<i>Country</i>	<i>Total Expenditures</i>	<i>Cost of Army and Navy</i>	<i>Per Cent</i>
Austria-Hungary.....	\$ 933,902,000	\$ 130,557,000	14.0
France.....	868,106,000	259,349,000	29.9
Germany.....	686,900,000	312,967,000	45.5
Great Britain.....	882,853,000	351,044,000	39.7
Italy.....	507,623,000	125,143,000	24.6
Japan.....	286,836,000	93,576,000	32.6
Russia.....	1,411,281,000	371,871,000	26.3
Spain.....	217,774,000	49,899,000	22.9
United States.....	901,298,000	244,177,000	27.1

* From A. W. Allen, *The Drain of Armaments*, World Peace Foundation, Pamphlet Series III, No. 6 (June, 1913).

† *Ibid.*

fore, to comprise purely national and wholly separate military establishments, or shall there be international joint action?

The first alternative is open to many weighty objections. The main one is that, if it were adopted, we should see little or no systematic reduction of armaments. So long as armaments are maintained on the assumption that nations may be obliged to defend themselves at any moment without assistance, reduction will, of course, be considered unsafe and impracticable. The European nations, however, emerge from the war period burdened with colossal debts, and it is difficult to see how they can keep up armament expenditure, even on the pre-war scale, without running the risk of sheer bankruptcy. The armament situation, then, considered simply in relation to post-war burdens, demands international treatment and international agreement.

But there are other important considerations. So long as unchecked armament-building goes on, the old absolutist conception of state power will be perpetuated, and militarist governments will continue to intrigue for aggression or defense in new groupings. Far from being really free to determine their military and naval policies, the nations will be under the severe constraints imposed by conscious competition, such as were so keenly felt by the French and Germans, or the Germans and British, before 1914. Social reconstruction and betterment will be impeded by the progressive diversion of funds to military and naval purposes. Finally, the danger of war — after a brief period of fiscal recovery, at all events — will be just as great as ever it was, because states which have superior armed establishments will be tempted as heretofore to make use of them.

Both because a league of nations, in order to be effective,

must have at its disposal an armed force, and because armaments which rest upon a purely national basis will be more and more burdensome and dangerous, internationalization of some kind is plainly called for. But how shall an international force be provided? There are at least three possible ways.

The first is, to endow some executive international body with authority to levy and maintain a new international land and sea force superior to any national establishment or combination of national establishments that it might be called upon to meet. This plan of a super-army is not practicable. Few if any nations would assent to it; besides, it would mean an attempt to cure militarism with militarism.

A second mode of procedure would be for the several nations to give up their own armies and navies altogether, and furnish quotas toward an international armed force under a permanent international control. This, too, is impossible; for the nations not only would not, but should not, deprive themselves of the armies and navies necessary to maintain internal order and repel sudden attack.

A third plan is, to leave to the several states their separate armies and navies, but to provide for an international force made up of contingents supplied from these national forces in such numbers and under such circumstances as the executive authority of the League should determine. This means international use of and command over forces that remain national. It avoids the danger and expense of creating a purely international force, and is much more apt to secure the desired result. For international armed co-operation of this kind there are several good precedents: the blockade of Crete in 1897, the Peking expedition of 1900, and the occupation of Scutari in 1913, come readily to mind. The League would merely tend to convert

casual and voluntary joint undertakings of the states, such as those mentioned, into a permanent, obligatory association whose effects could be definitely counted on. This is the method contemplated in every one of the plans surveyed above, and in the Covenant adopted at Paris.

Limitation of Armaments. — To provide thus an armed force for the use of the League is one thing; to endow the League with powers of control over the entire military and naval establishments of the member-states is quite another. It is confidently to be believed that the sheer fact of the creation of a league, with substantial powers and with real sanctions, would so relieve the anxieties of states, that a considerable reduction of armaments would forthwith take place. It is equally reasonable to suppose that a few years of successful operation of the League would so inspire the powers with confidence, that they would voluntarily go yet further in the direction of disarmament. The fundamental purpose of the League may, indeed, be said to be to create a universal state of mind unfavorable to war, and to inspire in governments and peoples a consciousness of security such as will prompt them to avoid all excesses of armament outlays.

It may be doubted, however, whether this solution of the armament problem should be left to work itself out entirely unassisted — whether, in other words, armaments within the states should not immediately be brought in some degree under international control. It is important to observe that almost all plans for a league of nations provide for some power of this sort in the executive organ of the association, the Covenant adopted by the Paris Conference no less than the others. There are four main lines on which such control may be exercised, according as it relates to (1) the size of the military and naval establishments; (2) the manner in which the soldiers and sailors

are recruited; (3) the amount of equipment and armament that may lawfully be kept ready for service; and (4) the conditions under which munitions may be manufactured.

Several specific schemes have been put forward for partial disarmament, to be carried out under the League's direction. They generally agree that the reduced armaments should be proportioned to the importance of the nations, or, perhaps more exactly, to the land and sea forces actually maintained in 1914. To curb the spirit of militarism, General Smuts further insists that conscription be forbidden, and that all national armies be raised from men given a militia-training on the Swiss model, or simply from volunteers on our former American plan. Any attempt to regulate the quantity of war-equipment to be kept on hand must be attended with difficulty, because it is impossible to say with assurance what war-equipment includes. It obviously includes cannon and rifles and tanks and poison-gas; but does it extend to food, ships, metals, horses? Under the conditions of modern warfare almost everything becomes, or may become, of service to a belligerent. Without attempting to cover the whole field, international regulation could, however, clearly be made to apply to those instrumentalities that serve military ends exclusively. Finally, many have suggested that, with a view to eradicating the militaristic influence of the great privately owned armament industries, supported as they commonly are by a subsidized "patriotic press," the manufacture of munitions be put, in every country, in the hands of the state.

The Paris Covenant contemplates some surveillance of national armaments by the League. First, the Council is to formulate plans for the reduction of such armaments "to the lowest point consistent with national safety and

the enforcement by common action of international obligations." Second, the same authority is to determine for the consideration and action of the several governments what military equipment and armament is "fair and reasonable" in proportion to the scale of forces laid down in the programme of disarmament, and the limits thus fixed, after being adopted by the several governments, may not be exceeded save with the Council's consent. Third, the Council is to advise how the evil effects attendant upon the manufacture by private enterprise of munitions and implements of war may be prevented. Fourth, the member-states are obligated to give full publicity to their military and naval programmes. Finally, a permanent commission is to be constituted, to advise the League on the execution of these provisions, and on military and naval matters generally. Thus the long-standing armament problem is to be put in the course of solution, *indirectly* by liberating peoples from the seeming necessity of maintaining huge land and sea establishments for their single-handed defense, *directly* by the placing of positive restrictions upon national armament-building.

CHAPTER VIII

INTERNATIONAL ADMINISTRATION

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I. INTRODUCTION

THE study of international control through governmental agencies naturally divides itself into three separate and distinct fields,—legislative, judicial, and executive,—each with its own characteristic problems. In the field of legislation, international control was first attempted by embodying law-making provisions in great European peace treaties, such as Article 109 of the Treaty of Vienna in 1815, establishing the principle of free navigation upon international rivers, or the famous Declaration of Paris of 1856, made by the peace delegates at the conclusion of the Crimean War, in order to bring to final settlement certain long-standing controversies which had raged over the conduct of maritime warfare.¹ A second phase of legislative development was marked by international conferences, called together from time to time as occasion presented itself, for the special purpose of legislating upon specific subjects of international concern. Much important legislation followed: such as the Geneva Convention of 1864,² regulating the treatment of sick and wounded in war; the Brussels Convention of 1874,³ regulating land warfare (which though never ratified was generally observed, and later became the basis of the similar Hague Conventions of 1899 and 1907),

¹ For text of Article 109 of the Treaty of Vienna, see Hertslet, *The Map of Europe by Treaty*, vol. I, p. 270. For text of Declaration of Paris, see *Ibid.*, vol. II, p. 1282.

² Malloy, *Treaties of the United States*, vol. II, p. 1903.

³ *American Journal of International Law*, vol. I, Sup. p. 96.

and the Berlin "General Act" of 1884-1885,¹ regulating African affairs in the Congo regions. The most recent legislative development has been the calling of the Hague Conferences to secure international legislation upon matters of general interest and importance. The Hague Conferences, it is true, must be frankly recognized as little more than diplomatic gatherings for discussing, registering, or codifying such rules as have already won the well-nigh unanimous approval of all states represented, rather than as true legislative assemblies, since there is no form of majority or two-thirds rule, and since no state can be bound by the unanimous vote of the Conference without its separate ratification. Nevertheless, the three Conventions adopted by the 1899 Hague Conference, and the thirteen Conventions of the 1907² Conference have already exercised a large influence upon the shaping of international affairs.

In the field of international control through judicial action, distinct progress has also been made. Various treaties providing for arbitration have been entered into between particular countries for many years; but as these have not generally required compulsory arbitration, and as it has been quite common to exclude questions of national honor (a phrase so vague that it may be used to cover almost any question desired), such treaties have not played a major part in the prevention of war, important as some of the particular arbitrations have been. Perhaps the furthest advance made in such arbitration treaties was the series of so-called Bryan peace treaties, negotiated during President Wilson's first term, and now in force between the United States and some twenty different countries, each treaty providing that all disputes "*of every nature whatsoever* which diplomacy shall fail to adjust" shall be sub-

¹ *American Journal of International Law*, vol. III, Sup. p. 7.

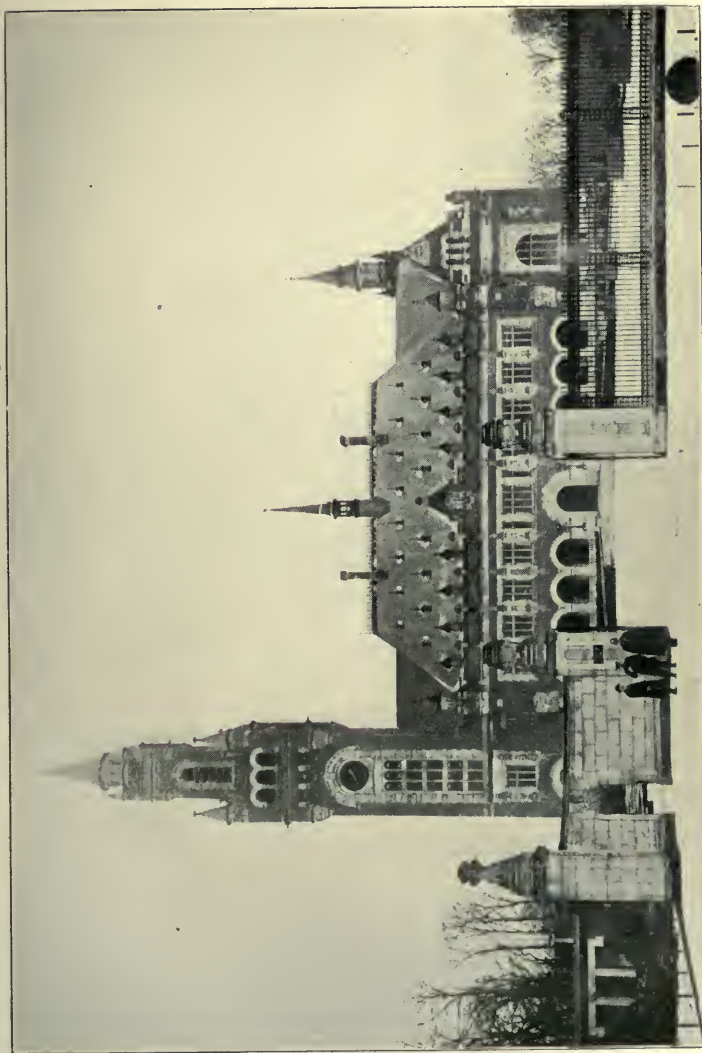
² Malloy, *Treaties of the United States*, vol. II, pp. 2016, 2220.

mitted for judicial investigation and report to an impartial international commission, and that the disputants shall refrain from hostilities until the international commission shall have completed its report, after which they may act as they see fit.

A more universal plan of arbitration was that provided for at the Hague Conference of 1899, and improved and enlarged upon at the 1907 Conference. Although this famous Convention does not require compulsory arbitration, but merely provides convenient machinery for those who may desire to arbitrate their differences, and although provision is made rather for compromising disputes than for adjudicating them, yet the Convention has already proved itself of real service. Before the international tribunal thus created have been decided no less than fifteen international controversies, which ordinary diplomacy had failed to settle, including the North Atlantic Coast Fisheries dispute, which for over a hundred years had baffled every effort to reach a satisfactory solution and had never ceased to cause serious misunderstanding and bitterness of feeling between the two great Anglo-Saxon nations.

Quite distinct from questions of international control by legislative and by judicial action is the problem of control by administrative or executive action. Perhaps less thought and consideration have been given to this problem than to either of the other two; yet a glance at the Covenant of the League of Nations will show how large a place in the functioning of the new league problems of international administration will assume. Roughly speaking, the Covenant undertakes to exercise direct and positive international control in five major ways, which may be briefly summarized as follows:¹ —

¹ In setting forth these five major modes of control, it is not intended to minimize, nor to overlook the importance of such provisions as



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THE HAGUE PEACE PALACE

1. Settlement of international disputes through arbitration and conciliation. (Articles XII–XVI.)
2. Guaranties against infringement of territorial integrity and existing political independence. (Article X.)
3. Reduction and limitation of armaments, and regulation of trade in ammunition. (Articles VIII and XXIII (d).)
4. Mandatory system of colonial administration. (Article XXII.)

5. Abolition of secret understandings through required registration and publication of treaties. (Article XVIII.)

It is quite striking that no one of these five modes of world control depends upon the enactment of international legislation. Although the future growth of international legislation will probably be stimulated by nothing so much as by the creation of the League of Nations, the express provisions of the Covenant do not set up any special legislative organ, nor indeed is the success of the League directly dependent upon the evolution of such an organ.

Judicial action is made use of in only one, though perhaps the most important one, of the League's five modes of international control. Even here a careful analysis shows that, apart from the Court of International Justice which it is hoped to establish in the future, the League's provisions for arbitration or conciliation are designed perhaps as much to promote the formation of a correct and united public opinion, as to enable the issuance of compulsory orders like court decrees, to be enforced with arms if necessary. The effectiveness of the judicial function of the Articles XI, XXIII, and XXIV, which provide for the open discussion of all matters which threaten to disturb international peace, for common action to safeguard peace, for supervision over the white slave traffic, the opium trade, the arms and ammunition trade, and for securing "freedom of communication and of transit and equitable treatment for the commerce of all members of the League." The effectiveness of each of these articles depends directly upon executive action.

League is based largely upon the premise that a strong and enlightened public opinion is often more efficacious than bayonets in settling international disputes. Under the new League Covenant, no nations are compelled, apart from special treaties, to submit their differences to a board of arbitration, but may instead refer such differences to the vote of the Council, a political (that is, non-judicial) body; and the vote of the latter is not binding unless all except the parties to the dispute agree in a unanimous report.¹ Except in a clear and evident case of direct violation of law, unanimity is not likely to prove the rule. Whether unanimous or not, however, the findings of the Council are to be embodied in a report to be issued and published, "containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto." The resulting public opinion, which will doubtless depend very greatly upon the recommendations in this report, cannot but prove a powerful factor in effecting an understanding.

The other four modes of international control as mentioned above depend either upon administrative action or upon the terms of the treaty provisions themselves; but since the binding force and effectiveness of any treaty depend upon an effective and a common interpretation, application, and administration of its terms, the major portion of the power of the League depends, in the last analysis, upon successful international administration.

No better illustration of this could be had than that afforded by Article X. The territorial integrity of every

¹ Article XV. Although the vote of the Council, to be binding, must be unanimous, either party has the right to refer the dispute to the large Assembly rather than to the Council. Even in this event a decision is not binding unless concurred in by the delegates of the nine states represented on the Council, and by a majority of the other members of the League, exclusive in each case of the representatives of the parties to the dispute.

member of the League depends upon the express guaranty contained in Article X, and to that extent international control is measured by the terms of the treaty provision itself, rather than by the determinations of any executive organ. Yet, if Article X is to mean more than empty words,—if it is to be clothed with force and reality,—some means must be had for promptly and authoritatively determining in each particular case, as it arises, whether or not specific and admitted acts have constituted an infringement of territorial integrity. This may prove an exceedingly difficult question, depending upon a determination of just what constitutes “political independence,” what constitutes “aggression” against such “political independence,” whether economic duress would constitute such “aggression,” how far the consent of government officials in the aggrieved state will afford justification for the alleged aggression, and countless other serious problems. For instance, all might not agree as to whether Japan was guilty of “aggression” against the “political independence” of China in the presentation of her famous “Twenty-one Demands”; and again, the conduct of the United States in acquiring the Panama Canal Zone during President Roosevelt’s administration might be regarded in quite a different light by friends of the United States and by those of Colombia. If the future League is to function effectively, the determination of such questions must be centred in a single organ of power; otherwise the resulting lack of uniformity of opinion will tend to paralyze common action by the various members of the League. The Council, which, under the terms of Article X, is apparently given the duty of deciding such questions, will thus have before it an exceedingly difficult problem of international administration; and upon the wisdom and effectiveness with which it meets this problem will depend the real

success of international control through the guaranty of territorial integrity and political independence.

The other three modes of international control depend even more directly, if not entirely, upon a successful solution of the peculiar and characteristic problems of international administration. The provision that all treaties to be valid must be registered and published, so as to do away with all secret understandings and treaties which will not bear the light of publicity, requires for its administration the performance of chiefly ministerial or non-discretionary duties, and hence may present no very serious problem from the viewpoint of international administration. But the task of securing a substantial reduction and limitation of armaments, and the question of effective colonial administration through the mandatory system, present difficult problems in international administration, upon the successful solution of which depends in large measure the future stability of the League. It cannot fail to be evident, therefore, how important is a correct understanding and application of the principles underlying international administration, if the proposed League is to prove an enduring and a powerful factor in world control and the prevention of war.

II. LEAGUES OF THE PAST THREE CENTURIES

The Treaty of 1648. — The Peace Congress of 1919 is not the first occasion upon which the diplomats of the world have assembled at the close of a great war, and endeavored by means of a league of nations to guarantee the keeping of the world's peace. At the close of the Thirty Years' War, the Treaty of Münster of October 24, 1648, signed by the French King, the Emperor, and the several Princes of the Holy Roman Empire, provided for a rudimentary league of nations, and stipulated that "the

concluded Peace shall remain in force, and all Partys in this Transaction shall be oblig'd to defend and protect all and every Article of this Peace against any one; . . . and it shall not be permitted to any State of the Empire to pursue his Right by Force and Arms; but if any difference has happen'd or happens for the future, every one shall try the means of ordinary Justice." The treaty further adds that, in case any dispute should arise, if after three years the dispute cannot be settled by peaceful means, "all and every one of those concern'd in this Transaction shall be oblig'd to join the injur'd Party, and assist him with Counsel and Force to repel the injury, being first advertis'd by the injur'd that gentle Means and Justice prevail'd nothing."¹

The Treaty of 1711. — Again, toward the end of the long War of the Spanish Succession, on December 22, 1711, another effort was made to guarantee the expected peace by a new league. Under the terms of this very interesting treaty the Allies, then fighting against France, "do sincerely and solemnly engage, and mutually promise that they will faithfully, diligently, and with the utmost industry, direct the course of their councils, and mutually employ their care and pains (even with an arm'd force, if necessary) to the end that the said peace may be truly observ'd; . . . and that all controversies which may arise about its genuine sense be amicably decided, or if amicable means should not succeed, then before the end of two months, or even sooner, in a case where the exigency of the danger will not suffer delay, the common forces of the Confederates who shall subscribe this convention, shall be united together, and such a number sent to act either by sea or land against the disturber, whosoever he be, as the

¹ For English translation of Articles 123 and 124 of the Treaty of Münster, from which these extracts are taken, see Sayre, *Experiments in International Administration*, p. 173.

greatness of the danger shall require, till satisfaction be made to the party injured, and till there be an entire prospect or provision for renewing and securing the publick peace and tranquillity.”¹

The Treaty of 1818. — A century later still another league was formed to guarantee the peace following the great Napoleonic wars. On November 15, 1818, Austria, France, Great Britain, Prussia, and Russia issued the famous Declaration of Aix-la-Chapelle creating an “august Union,” “which is the more real and durable, inasmuch as it depends on no separate interest or temporary combination.” “The intimate Union established among the monarchs, who are joint parties to this system by their own principles, no less than by the interests of their people, offers to Europe the most sacred pledge of its future tranquillity. The object of this Union is as simple as it is great and salutary. It does not tend to any new political combination. . . . It has no other object than the maintenance of Peace, and the guarantee of those transactions on which the Peace was founded and consolidated.

“The Sovereigns, in forming this august Union, have regarded as its fundamental basis their invariable resolution never to depart, either among themselves, or in their Relations with other States, from the strictest observation of the principles of the Right of Nations; principles which in their application to a state of permanent Peace, can alone effectually guarantee the Independence of each Government, and the stability of the general Association.”²

It is significant that none of these three leagues was endowed with any administrative machinery or definite organ for carrying out the purposes of the alliance; and every one of the attempted leagues ended in failure. No league

¹ *The Complete History of the Treaty of Utrecht*, vol. 1, p. 128.

² Hertsllet, *The Map of Europe by Treaty*, vol. 1, p. 573.

which seeks to guarantee the keeping of an unjust peace rather than the impartial application of fundamental principles of international justice can permanently endure; and the failure of these leagues was doubtless inevitable because of inherent injustice in the peace treaties which they sought to guarantee. Nevertheless, their failure was inevitable also because of the complete absence of any executive machinery. In any league, however just the terms of peace may be, differences of opinion as to interpreting, applying, and executing its terms are bound to make themselves felt. If there be no definite organ or legally constituted body with power promptly and effectively to deal with such questions as they arise, there cannot be the community of purpose and unanimity of action which form the very essence of a league of nations. Logic as well as history would therefore seem to prove that a league, to avoid certain failure, must possess carefully constituted administrative organs, adequate for the effective execution of its provisions. As to what the nature of these organs shall be, whether they shall be small and powerful or large and representative, how they shall be constituted, how they shall function, and with what powers they shall be clothed, there is wide disagreement. No sweeping or dogmatic answers to these questions are possible; for the nature and power of each separate executive organ must depend in large measure upon the particular kind of administrative work which it is called upon to accomplish. But a study of the past experiments of international control exercised through administrative bodies is highly suggestive; such a study may help to bring home a larger understanding of general underlying principles, and an appreciation of the many pitfalls and dangers which line the pathway of international administration.

III. DEVELOPMENT OF MODERN INTERNATIONAL ADMINISTRATIVE REGULATION

Public Unions. — Probably the best known, and certainly the most numerous, of the modern examples of international administration have been the so-called "Public Unions," which have developed within the past fifty years, in response to the ever-growing necessity for unified control of such matters as international trade and commerce. Apart from the hundreds of international associations composed of private individuals, which during the years 1901–1910 held no less than seven hundred and ninety Congresses or Conferences,¹ there exist to-day some thirty or more public international unions or associations of states. Some of these are comparatively small and of very minor interest; others are composed of all the leading states of the world, and control matters of large concern.

Because of the importance and the success of its achievements, the Universal Postal Union is probably the best known of any of the public unions. Before its formation the postal business of the world was struggling against the current conceptions of international law, which so exaggerated the sanctity of each nation's sovereignty that each state felt free to charge as high rates within its own borders as it pleased and dared. Since each country was naturally more concerned with promoting its own national profit than with international interests, the resulting postal rates, which included a payment to the country of despatch, another to the country of destination, and others to every country through which the letter was carried, were such as to make international business involving much postal correspondence almost impossible. For instance, one sending a letter from the United States to Australia was confronted by the fact that the postage would cost five cents,

¹ See lists in *Annuaire de la vie internationale*, 1910.

thirty-three cents, forty-five cents, sixty cents, or a dollar and two cents per half-ounce, according to the route by which the letter traveled.¹

There could be but one result. The prevailing system of separate state control of international postal communication was pushed aside by the imperative demands of business and commerce, and in its place was substituted an actual international control. After numerous preliminary discussions, the leading states formed a General Postal Union in 1874, and in 1878 this became the Universal Postal Union. Since that date various modifications have been made, and new states have been added to the Union; the convention concluded at Rome in 1906,² which is at present in force, was signed by practically all the civilized states of the world.

This Convention considerably restricts the individual exercise of sovereignty by the separate states so far as postal matters are concerned. The right of transit throughout the territory of the Union is guaranteed; and both transit charges and postal rates are definitely fixed and standardized, and can thus be altered by no state without the consent of the international Congress. By the detailed regulations adopted by the Congress of 1906, each state is required to forward international mails "by the most rapid routes at its disposal for its own mails"; and elaborate rules are established regarding the fixing of responsibility in case of loss, special-delivery service, registered mail, collectable trade charges, reply coupons, reforwarding articles, postcards, undelivered articles, etc.

For the regulation of international postal affairs a governing body is established, consisting of two main organs:

¹ Paul S. Reinsch, *Public International Unions*, p. 21.

² For the text of the Convention, see Hertslet, *Commercial Treaties*, vol. xxv, p. 430.

the Postal Congress and the Permanent Bureau. The duties of the latter are mainly of a ministerial or secretarial character; they consist in the collection and publication of postal information, in the keeping of records and issuing of reports, in acting as an ever-ready communicating medium among the member states, and in giving upon request an opinion upon questions in dispute. The Bureau is located at Berne, and is maintained under the supervision of the Swiss postal administration.

The organ to which is delegated the power of exercising an actual international control is the Postal Congress. This is a body composed of one representative from each member state. It assembles periodically, and has the power, by majority vote, to change the Convention under which it is created, or to alter as it sees fit the existing international postal rules and regulations. Although the votes of this Congress require ratification by the member states before they become formally bound thereby, yet, in the practical conduct of affairs, a state is often forced to yield a reluctant ratification rather than give up the incalculable advantages of full membership in the Union. "In fact, so far has the surrender of independence to International Government gone in the Union, that the theoretical right of the State to refuse ratification to the Convention and Règlement as voted at a Congress, in practice hardly exists. The Administrations adhering to the Union never wait for formal ratification before putting the new regulations into operation, and the decisions of a Postal Congress are acted upon, whether they are ratified or not."¹

In actual operation the Universal Postal Union has proved highly successful. Through the uniformity of postal regulations thereby secured, and through the low postal rates constantly maintained, international business has

¹ L. S. Woolf, *International Government*, p. 123.

increased by leaps and bounds, to the immeasurable profit of each nation. The constant interchange of thought which has directly resulted has perhaps contributed as much as any other factor toward bringing into closer understanding and appreciation of one another the disparate peoples of the world.¹

Other public unions, some of which have played no small part in making possible the present commercial development of the world, include the Telegraphic Union, the Union for the Protection of Industrial Property (that is, patents, trademarks, etc.), the European Union of Railway Freight Transportation, the Metric Union, the Agricultural Institute, the Union for the Protection of Submarine Cables, the Union for the Repression of the White Slave Trade, and many others of minor importance. The organization of these varies considerably; in most of those, however, which are endowed with permanent legislative and executive organs, it roughly approximates the Postal Union type.

In the constitution and operation of these public unions there is much that is suggestive. It is true that such power as they possess lies within very restricted limits, and does not involve such matters as usually furnish cause for war. Yet within these narrow limits they have shown how inestimable are the national advantages which may flow from a restriction of national sovereignty in the interest of international government, and have also given striking

¹ Some idea of the magnitude and importance of international postal communication may be gathered from a glance at some of the statistics published in the annual reports of the Postal Union. In the report for 1910 the statistics given were as follows:—

Number of letters carried	905,243,677
Postcards	277,932,086
Printed matter	551,929,168
Money orders	28,839,466
Value of money orders (in francs)	1,614,924,629

evidence of the fact that, when the necessities of the situation demand an international control, it has not proved impossible to organize and to exercise it successfully.

The evident aim of the proposed League of Nations is not to break up or supplant the organizations of the public unions which are now in successful operation, but rather to promote and enlarge upon them. The terms of Article XXIV expressly provide for the placing of all existing and future international bureaus under the direction of the League; and the Council of the League is authorized to pay the expenses of such bureaus or international commissions out of the League's own funds. The Secretariat of the League is furthermore authorized, with the consent of the Council, "in all matters of international interest . . . [to] collect and distribute all relevant information, and [to] render any other assistance which may be necessary or desirable." Certain fields of international concern are by the new Covenant placed under the direct supervision of the League. These include such matters as the traffic in women and children, the traffic in opium, and the prevention and control of disease. In addition, the League considerably increases the field of international executive action by undertaking such matters as "the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest," and the securing and maintenance of "freedom of communication and of transit and equitable treatment for the commerce of all members of the League."¹

River Commissions.—International administrative control has not been limited to purely commercial or scientific matters. Although, as is natural, instances have been few where nations have been willing to part with the

¹ Article XXIII.

power of unrestricted action in important political or governmental matters, yet, where they have been willing to do so, and have conferred adequate power upon some international organ of control, the results have been in a number of cases highly successful. Notable among such governing bodies are the international river commissions.

With the growth of international trade and commerce, the earlier principles of international law, which had been worked out at a time when nations were in fact almost entirely independent of one another, began to prove inadequate to meet the changed conditions. Particularly was this true in regard to "international rivers," that is, those which separate, or flow through, several states. The "separatist theory," that each state might impose such tolls and make such regulations of navigation as it pleased over that portion of the river which lay within its own boundaries, resulted in such excessive tolls and harassing regulations against foreigners, that either the "separatist theory" had to be modified or international river commerce cease further development. In 1804 a treaty relating to Rhine navigation, concluded between France and the Holy Roman Empire,¹ definitely discarded the "separatist theory" and adopted instead a system of international regulation. This was accomplished by setting up an international organization to regulate all navigation on the river, and to prevent the imposition of any navigation dues except fixed and specified tolls which it was to collect and pay into a central treasury. At the head of the river administration was placed a Director General of the Tolls, appointed in common by the riparian powers; he was assisted by four inspectors, of whom two were chosen by the French Government and two by the German Arch-chancellor. Appeals from the decisions of the Director

¹ Martens, *Recueil de Traité*s, vol. VIII, p. 261.

General could be carried before an International Commission, composed of the local prefect as commissioner of the French Government, a commissioner appointed by the German Arch-chancellor, and a jurist who lived on the Rhine, chosen by the other two commissioners. Upon matters of river administration this International Commission was empowered to render final judgment.

The Congress of Vienna of 1815 gave fresh impetus to the idea of international river administration by the provisions of Article 109 of the Final Act,¹ which declared that "navigation on all [international] rivers, from the point where each of them becomes navigable to its mouth, shall be entirely free, and shall not, in respect to commerce, be prohibited to any one; it is understood, however, that one will conform to the regulations relative to the police of this navigation. These regulations shall be uniform for all, and as favorable as possible to the commerce of all nations."

The principles thus announced were later made the basis of treaties concerning the free navigation of the Scheldt, the Elbe, and the Weser rivers. A new Rhine treaty was also drawn up,² which retained the international organization, but provided that the International Commission should be composed henceforth of one representative from each state bordering upon the Rhine. The treaty accorded to this Central Commission new duties and powers, stating that it should "attend to all matters that may contribute to the general interests of navigation and commerce"; and specifically provided for the respective voting rights of the different member states.

Two subsequent Rhine treaties, the first³ necessitated

¹ Hertslet, *The Map of Europe by Treaty*, vol. i, p. 270.

² Martens, *Nouveau Recueil*, vol. II, p. 414.

³ For the treaty of March 31, 1831, see De Clercq, *Recueil*, vol. IV, p. 24.

by the dispute which arose over the interpretation of the Vienna Regulations between the German states and the Netherlands, and the second¹ by the political changes which followed the Austro-Prussian War of 1866, retained the Central Rhine Commission, which was still effectively functioning, though with somewhat reduced powers, at the outbreak of the European war in 1914. No better proof of the success of international river administration could be had than the fact that, through all the changing exigencies covered by the treaties of 1804, 1815, 1831, and 1868, the Rhine International Commission was retained as the most practicable and efficient form of international river regulation.

Undoubtedly the most famous, and probably the most successful of the international river commissions is the "European Danube Commission," created by the Treaty of Paris, concluding the Crimean War, in 1856.² This differs in type from the Rhine Commission in that it is composed of representatives of the Great Powers in Europe rather than of the riparian states — a fact due to the failure of the lower Danube states to improve the navigability of the river to the satisfaction of the Great Powers concerned.

The work of the European Danube Commission has been universally praised. Not only has it shortened the river course a quarter of its length, that is, from forty-five to thirty-four miles, and increased the minimum depth of the channel from nine to twenty-four feet, but it has succeeded in reducing the navigation dues from 3.75 francs per registered ton to the present rate of 1.70 francs.³ It has

¹ For the treaty of October 17, 1868, see Martens, *Nouveau Recueil Général*, vol. xx, p. 355.

² Article 16 of the Treaty of Paris of March 30, 1856. Hertslet, *The Map of Europe by Treaty*, vol. II, p. 1258.

³ *British Parliamentary Accounts and Papers* (1907), vol. LXXXVII [Cd. 3646], p. 7.

built up the port of Sulina at the mouth of the river, with hospitals, lighthouses, floating elevators, and other modern facilities, and has regulated the entire navigation upon the lower Danube quite independently of local territorial authority. Its power includes the right to make all river regulations, to maintain and improve the navigability of the lower Danube, to control by the issue of licenses the tugs, lighters, and pilots on the river, and to impose fines for breach of its regulations. Its personnel and its works have been neutralized; and it has been accorded a special flag. It is of especial interest that the Commission which has been so successful in accomplishing this work has discarded the ordinary unanimity requirement of voting, and in all cases excepting "fundamental matters of principle" acts by majority vote.¹

An international river commission, closely modeled upon the successful Danube Commission, but never put into actual operation, was the Congo River Commission, created by the General Act of Berlin of 1885.² In order to secure the enforcement of those provisions of the act which declare the neutrality and freedom of navigation of the Congo River, an international commission was created, with large powers; but whether by carelessness or design, no method was devised for raising the money necessary for the accomplishment of its work, the signatory powers expressly repudiating any financial responsibility for the Commission. "In making this reservation," remarked a French writer, "the Conference has simply erased all possibility of credit for the Commission, since it has made of it a being impersonal, intangible, impalpable,

¹ For a translation of the text of the Regulations of 1879, governing the Danube River European Commission, see Sayre, *Experiments in International Administration*, p. 182.

² Martens, *Nouveau Recueil Général* (2d series), vol. x, p. 414.

with not even enough capital at its command to begin the preliminary studies for the conclusion of any loan. . . . The Conference has made a liberal award of all kinds of prerogatives; it has forgotten only to add the means of living and acting.”¹ The Congo Commission, therefore, furnishes only an interesting example of the fact that international control by a commission without financial or other necessary power is an impossibility from the outset.

Governmental Commissions.—If indeed successful international governing organs have been devised for controlling international rivers, the same can hardly be said of the commissions set up to govern distant and backward states, too weak to be accorded independence, and, on account of European jealousies, too valuable to be freely allowed to pass to any single one of the great European powers. The government of a distant people by international commission is a matter of peculiar and extraordinary difficulty; for not only does one have to face and solve the problems that rise from the government of native, and often little-understood peoples, but matters are infinitely complicated by all the intrigues and ambitions, the secret understandings and selfish jealousies, of international politics.

Perhaps the most instructive, as well as the most recent example of this type of international undertaking was the ill-fated Albanian Commission of 1913. At the close of the First Balkan War, in order to prevent the strengthening of Serbia by the annexation of the Albanian country which had just successfully overthrown the tyranny of Turkish rule, Austria insisted, in no uncertain terms, that Albania should be set up as an independent state. Partly in order to prevent an Austrian attack, and partly because of

¹ Translated from the *Revue de Droit International*, vol. XXI (1889), p. 186.

Albania's nationalistic aspirations, the London Conference of Ambassadors, which had been called together by Sir Edward Grey to settle the Balkan difficulties, decided upon an independent Albania, controlled by an international commission.

This International Commission held its first sitting at Valona on October 15, 1913. It was composed of one representative each from Austria-Hungary, France, Germany, Great Britain, Italy, Russia, and Albania, and was intrusted with supreme control over the German prince who had been called to the throne, and over the native Albanian cabinet. From the very outset the difficulties proved insuperable. The native tribes and factions were actuated by no sense of unity or loyalty to common ideals; the new sovereign proved unequal to his task; the neighboring powers, by their threatening attitude, made what was already a grave situation still more difficult; and the Great Powers which had assumed the right to control the local government through the International Commission refused to assume responsibility for the maintenance of order within the turbulent country.¹

The resulting fiasco was the natural outcome of such impossible conditions. Disorder and open revolt broke out; the Prince and nearly all the members of the Commission left Albania upon the outbreak of the European War; chaos ensued, and continued, until finally the unhappy country was overrun by the Austrian armies in the opening weeks of 1916.

The incident of the Moroccan Police is the story of another unfortunate attempt to control a local situation by a makeshift international arrangement. Germany, unwilling to see France secure a strong foothold in Morocco, and

¹ See Sir Edward Grey's statement to this effect, in *Parliamentary Debates*, House of Commons, Fifth Series, vol. LXIII, p. 1962.

sullen because of the Anglo-French Accord of 1904, which, without German consent, had given France a free hand in extending French influence in Morocco, demanded, amid the rattling of sabres, that the opening and development of Morocco be made the subject of international deliberation and control. Because of the existing international situation, France was forced to accede to the German demands; and a Conference, in which representatives of the United States and of the principal European countries took part, met at Algeciras in January, 1906.¹ At this Conference, to satisfy the insistent demands of Germany, the Powers created a so-called "International Police," recruited from native Moroccans, but organized by French and Spanish officers, and subject to the inspection of a Swiss Inspector General. Germany, unsupported in her demands by her ally, Italy, and finding herself strangely alone, was forced to content herself with this nondescript international makeshift. The result was probably not unforeseen. The Moroccan government proved itself less and less able to hold in control the turbulent natives; and it was only five years before the Sultan, finding himself besieged by native troops in his capital at Fez, sent out a call to France for military assistance. French troops, ready for such an emergency, entered Fez without difficulty; and the French occupation of Morocco stood out as a *fait accompli*.

A somewhat different type of international government is known as condominium, that is, the sharing of sovereignty over territory owned in common by two or more states. In 1906, England and France, finding themselves unable to divide the New Hebrides Islands because of the commingling of their interests there, compromised by instituting a joint government over the islands. By the

¹ For the text of the Act of Algeciras, see Martens, *Nouveau Recueil Général* (2d Series), vol. xxxiv, p. 238.

terms of this interesting arrangement¹ the New Hebrides group is constituted a "region of joint influence, in which the subjects and citizens of the two signatory Powers shall enjoy equal rights of residence, personal protection, and trade, each of the two Powers retaining jurisdiction over its subjects or citizens, and neither exercising a separate control over the Group." Each of the two countries appoints a High Commissioner, who commands one half of the island police force; these two police forces act separately and independently of each other, except when necessity requires their joint action. Legislative power is vested in the two High Commissioners acting jointly. Judicial power is divided between French and English national courts and a specially constituted Joint Court composed of one British judge, one French judge, and one foreigner, to be appointed by the King of Spain. French and English citizens are subject to their respective courts; foreigners must choose within six months between the French and the English legal systems.

Owing to defects in the organization of the joint government, to mutual distrust and racial animosities, and to the ignorance of foreign judges concerning the native language and customs, the New Hebrides government has not proved a success. Both countries are agreed that some change in the form of government should be made; efforts were being directed to that end when the sudden outbreak of the European War turned all thoughts to the battlefields of France.

Equally unsuccessful was the attempt made by the United States, Germany, and Great Britain during the closing decade of the last century to exercise a joint supervision over the Samoan Islands. By the Treaty of Berlin of June 14, 1889,² these three powers formally recognized

¹ Martens, *Nouveau Recueil Général* (3d Series), vol. I, p. 523.

² *U.S. Foreign Relations*, 1889, p. 353.

the Samoan Islands as neutral territory with an independent government, and agreed that none of them should attempt to exercise any separate control. Under their supervision a Supreme Court of Justice was to be established for civil and criminal cases in which foreigners were concerned, the presiding judge to be appointed by the three treaty powers, or, if they could not agree, by the King of Sweden and Norway. A municipal government for the capital district was provided for, composed of a municipal council and a president to be agreed upon by the three Powers. A schedule of import and export duties was likewise established.

Difficulties were soon encountered in the administration of the new government. Many of the natives were dissatisfied; dissensions and civil war broke out; matters went from bad to worse, until finally in 1899 the unworkable arrangement was abolished, and the Samoan Islands were divided between the rival claimants.

If, in the international government of local areas, the new League is to succeed where other attempts have failed, some new form of government must be devised which will minimize native hostility, foreign ignorance, and conflicting foreign jealousies. Such a plan the League has proposed in the mandatory form of government, embodied in Article XXII of the League Covenant. This proposal, built upon the premise that "the well-being and development of such peoples form a sacred trust of civilization," seeks to avoid the very natural hostility of any native community against a foreign government unceremoniously thrust upon it from without, by allowing the wishes of such communities to be "a principal consideration in the selection of the mandatory." For the government of such peoples the League discards the international commission, which the experience of the past has shown to be too often the mere

sport of international politics and from its very nature unsuited to the task. A commission composed of foreigners unfamiliar with native ways and thoughts is not apt to govern well; one composed of representatives of sharply conflicting interests and ideas is utterly incapable of governing consistently or efficiently. Instead, there is substituted government by a single nation or "mandatory"; and in the selection of mandatories, the League has power to choose that country best fitted on account of its sympathetic understanding, its peculiar interests, its resources, or its experience in governing native races. Not only does this make possible a unified and continuous policy of government, but the obligation of the mandatory government to render account of itself to the League cannot fail to develop a growing sense of international responsibility — a feeling which will go far toward making the League of Nations a living and effective reality.

Special Executive Commissions. — For the performance of much of its work, such as the securing of the reduction of armaments and the supervision of mandatory government, the proposed League will doubtless rely largely upon commissions delegated with special powers and authorized to exercise international control within specifically limited fields. A number of interesting international commissions have been formed in the past, with the similar purpose of accomplishing some particular object of political or governmental concern.¹ Certain of these have proved

¹ Space does not permit the description of the interesting executive commissions which were formed by the Allies under the unusual conditions of the war, and which contributed so largely to the winning of the war. These included such bodies as the Supreme War Council itself, the Allied Naval Council, the Inter-Ally Council on War Purchases and Finance, the Allied Maritime Transport Council, the Food Council, the Munitions Council, etc. For an interesting mention of "International Executives," see *American Journal of International Law*, vol. XIII, p. 85.

highly successful; others have been accorded so little actual power that failure was a foregone conclusion.

The International Sanitary Commission presents an interesting example of the exercise of international police power. For years the great cholera epidemics which usually enter Europe from Asia by the trade and pilgrimage routes had been a grave menace; during the nineteenth century Europe suffered from no less than six different cholera invasions.¹ With the unparalleled growth of international trade and travel, the danger to each separate country from the spread of these epidemics grew more and more grave, and the consequent necessity of some form of international control became correspondingly more evident; yet always the unwillingness of individual states to surrender in any way their "national sovereignty," and their blind insistence upon their separate "national interests," made any form of international control impossible of attainment. It was not until 1892, after literally thousands of lives had been sacrificed, that the European States were willing to consent to the adoption of international health measures.

The Sanitary Convention of December 3, 1903,² which is now in force between the United States and the leading countries of Europe, establishes stringent international quarantine regulations, carefully drawn notification requirements, and elaborate measures applicable to pilgrimages and pilgrim ships. Special sanitary councils are recognized and clothed with actual governing power over particular localities in order to secure the local enforcement of the provisions of the Sanitary Convention. The official British reports, commenting upon the work of the Inter-

¹ Europe was invaded by cholera in 1830-32; 1848-51; 1851-55; 1865-74; 1884-86; 1892-95.

² Martens, *Nouveau Recueil Général* (3d Series), vol. I, p. 78.

national Sanitary Council in Egypt, state that the death-rate due to plague among the pilgrims passing through Tor in 1913 was reduced to fifty-two deaths among Egyptian pilgrims and sixty-five among foreigners. "This is the lowest rate of mortality yet recorded," says the report. "There is an improvement of fifty per cent in mortality figures during the last ten years."¹ The result of each state's subjecting itself to the international quarantine and health regulations laid down by the Convention, and administered in backward areas by local international councils, has been of incalculable benefit in the saving of life and in the prevention of cholera and plague epidemics.

An example of an international commission which did not prove so successful was the International Suez Commission created by the Treaty of Constantinople of 1888.² In order to enforce the terms of that treaty, whereby it was declared that the Suez Canal should be kept "free and open in time of war as in time of peace to every vessel of commerce or of war without distinction of flag," an International Commission was set up, composed of the agents in Egypt of the signatories of the treaty, namely, Austria-Hungary, France, Germany, Great Britain, Italy, the Netherlands, Russia, Spain, and Turkey. It was agreed that the International Commission should meet once a year "to take note of the due execution of the treaty." Great Britain, however, who desired a free hand in Egypt unhampered by international control, refused to sign the agreement until the teeth had been extracted from the Suez Commission. Thus it came about that the only powers accorded to the Commission were to inform the Khedive of any suspected danger to the free use of the canal, and to demand the suppression of any work calculated to

¹ British *Parl. Accounts and Papers*, 1914, vol. ci [Cd. 7358], p. 48.

² Martens, *Nouveau Recueil Général* (2d Series), vol. xv, p. 557.

interfere with the liberty of navigation. A body with power only to inform, and to make unenforceable demands, will never become a very serious factor in the exercise of international control; it was only to be expected therefore, that the Suez Commission should amount to little more than a name. It is interesting chiefly as an illustration of the fact that no national or international commission can succeed so long as it is accorded only sham power.

A Commission which has had a very different history, and which has proved how admirable a control may be exercised through international means, even in exceptionally difficult fields of activity, is the Permanent Sugar Commission created in 1902. During the latter half of the nineteenth century, it became the custom among European sugar-producing nations, such as France, Germany, Austria, and Russia, to stimulate the growth and exportation of sugars by according bounties to growers and refiners of sugar. As time passed, the competition between sugar-selling nations became so keen that the bounties increased by leaps and bounds, and it soon became evident that some means must be found to abolish them. Yet for a time this seemed impossible; for the reduction of bounties by some, and not by all, would merely have the effect of throwing the entire international sugar-trade into the hands of the bounty-giving states, whose merchants, because of the bounties, could afford to undersell all other competitors. England was the great sugar-consuming nation of Europe, and was therefore temporarily profiting from the artificially cheapened sugars; yet some of the leading English statesmen saw that the drying up of the natural sugar supplies by the stimulation of artificial ones would have the effect of creating monopolies and ultimately raising prices; also, the English sugar-producing colonies were suffering keenly from the European bounty system. Mr.

Gladstone, therefore, as early as 1864, called together an international conference, with the hope of securing the abolition of all sugar bounties by common agreement; but the Convention of 1864, which was secured through his efforts, failed in its purpose, because it contained no penal clause for enforcing its provisions; and the matter was of too vital an interest financially for the member states not to find easy means of evasion. Various other efforts were made to end the evils of the bounty system which were fast becoming intolerable; but it was not until the Brussels Conferences of 1901-1902, that the European states finally consented to create an international body endowed with sufficient power to end the abuse.

By the Convention of 1902,¹ as supplemented by the additional Act of 1907,² and eventually signed by fourteen states, including Austria-Hungary, France, Germany, Great Britain, Italy, and Russia, the signatory states bound themselves to abolish within their borders all sugar bounties of every kind whatsoever, and to charge an additional sugar tariff upon all sugars imported from bounty-giving states equal in each case to the amount of the bounty given. In order to secure the enforcement of the provisions of this Convention, a Permanent Sugar Commission was created, composed of one representative from each signatory state. Power is given the Commission to determine finally whether alleged bounties are or are not being given in other states, and, if they are, to require each member state within two months to raise its tariff against such sugars. It is also empowered to authorize, under certain conditions, a particular member state to increase its sugar tariff above the general amount fixed by the Convention, and also to determine the method of apportioning expenses among the member states.

¹ Hertslet, *Commercial Treaties*, vol. xxiii, p. 579.

² *Ibid.*, vol. xxv, p. 547.

The Permanent Commission has accomplished its work wisely and well.¹ Not only has the evil system of European sugar bounties been brought to an end, but the Commission has accomplished its task with noteworthy tact and skill. "The delegates have always given proof of their sound judgment and prudence, and of the greatest solicitude for the economic interests of all the states, both signatory and non-signatory. . . . The Commission, then, constitutes a happy experiment, from which it will be possible in the future to draw inspiration which may prove useful in other fields of international law."²

It is interesting that this Commission, which has been so successful in accomplishing its task, has the unusual power of binding the member states by its own majority vote. The unanimity requirement, which has so often proved the stumbling-block in the way of effective and prompt international action, has been brushed aside in the interests of efficiency; the result adds immeasurably to the power and effectiveness of the Commission. Furthermore, the votes of the Commission become binding upon the member-states without their consent or ratification. It is not therefore surprising that at the time of its creation unfriendly critics should have called it an unwarrantable interference with national sovereignty, and enlarged upon "the indignity of our new protective customs duties being fixed for us by foreign states."³

¹ The fact of the British withdrawal from the Convention in September, 1913, is due, not to the failure of the Commission, but to the change of feeling on the part of the government of Great Britain, which, as a sugar-consuming nation, felt that its interests would no longer be conserved by membership in a Union formed primarily in the interests of sugar-producing states.

² Translated from André, *Revue Générale de Droit International Public*, vol. xix, p. 688.

³ Quoted from an article by Thomas Lough, in *The Contemporary Review*, vol. lxxxiii, p. 82.

At this time, when new and untried international commissions are being formed, the Sugar Commission is especially interesting because it proves the possibility of the exercise of an effective control by an international body, even in such difficult and delicate matters as the adjustment of foreign tariffs, when the Commission is properly constituted and clothed with adequate power.

IV. GENERAL CONCLUSIONS

Perhaps the most serious criticism of the proposed League has come from those who see in it an unjustifiable invasion of the sovereignty of individual states. Although every binding treaty is in fact a limitation upon the exercise of sovereignty, there is nevertheless some foundation for the charge; for one of the fundamental principles of our international law is that within its own borders a state should be the absolute and unrestricted master of its actions. But we must not close our eyes to the fact that the principles of international law were evolved at a period when conditions were very different from those existing to-day. The theory of the sanctity of sovereignty was well suited to a time when nations were *in fact* quite independent of each other; but since the days of Grotius much water has run under the mill. The far-reaching Industrial Revolution was followed by an unparalleled increase of international trade and commerce; this resulted in the international specialization of industry, some nations turning to the production of manufactured goods and others devoting their energies to the exportation of foods and raw materials. The result has been that, economically, nations are no longer independent of one another, but are in the most vital way dependent for their very existence upon the products of other states. If England were prevented from

obtaining foodstuffs and raw materials from other nations, in a few months she would starve.

Socially, no less than economically, nations are no longer independent and insulated units. The ideas originated in one nation bear fruit in another; the teachings of Nietzsche and Treitschke, adopted by the Prussian state of yesterday, bear fruit in the desolate homes which to-day extend completely around the world. The Bolshevism of Russia is the concern of America. No nation is any longer independent of the social conditions and the prevailing theories which exist in other nations; the action of each is the concern of all.

Although in fact the complete interdependence of nation upon nation has taken the place of their former independence, the underlying principles of our international relations still survive in much the same form as before the Industrial Revolution. Nevertheless, a change is in the air. Inroads have been made here and there. In one field of international concern after another, state separateness has been found impossible; and in spite of ever recurrent cries that the ark of state sovereignty was being outraged, international control has crept in. As evidenced by the numerous efforts to set up international administrative organs, the need for community of action has made itself increasingly felt. In international postal matters, in anti-plague regulations, in international river government, and in countless other fields, the separatist theory of international law has yielded to the demands of modern conditions. Slowly, methods of exercising such control are being worked out in legislative fields, in judicial fields, in administrative fields. Various experiments are tried, some bringing success, others failure. But the failures as well as the successes all make their contributions to the new edifice slowly being reared. Every year the law is being shaped to conform

more closely to the fact of the interdependence of nations and the consequent need within certain fields of international control.

Enough has been said to show that the new League is not a sudden bolt out of the sky, but the culmination of a slow and progressive development which began at least a century ago with the passing in fact of state separateness. Some form of international coöperation is the resultant of the slow operation of the forces of the world. The League may not spring into being to-day. But its eventual coming, all human opposition notwithstanding, would seem to be as inevitable as the approach of spring.

CHAPTER IX

NATIONAL SELF-DETERMINATION AND THE PROBLEMS OF THE SMALL NATIONS

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The Significance of the Principle of Nationality in Modern History. — Of all the forces or principles contributing to the “culmination of modern history” in the disastrous “War of the Nations” which has just closed, none has been more conspicuous or more fateful than that of nationality. It was the spirit of nationality which, “under the fair name of Fraternity,” first went forth in the days of the French Revolution to “make the world safe for democracy,” and ended twenty-two years later by leaving Europe in the control of despots. It was their approval of the principle of nationality that led the liberals throughout the world to sympathize with the nationalistic and revolutionary movements in southern and central Europe from 1820 to 1850. The aspiration for national independence impelled Germany under Bismarck, and Italy under Cavour, to seek and attain national unity, and awakened similar ambitions among the Slavs of central and southern Europe. It was nationality and its allied manifestations and institutions that transformed Europe into an armed camp during the last two generations. It was nationality, reinforced by the Industrial Revolution, that led the various states of Europe to attempt to extend their dominions overseas, with the resulting clash of claims and interests, and the growth of international suspicion and ill-will. It was an over-exuberant development of national spirit

which produced in Germany the conception of the Teutonic "mission" to bring, by force if necessary, the blessings of *Deutschtum* to the rest of the world. It was the attempt of Austria to repress beyond the limit of patient endurance the nationalistic aspirations of the Balkan peoples that led to the assassination at Sarajevo on June 28, 1914, and furnished the long-awaited opportunity for the German militarists and expansionists to formulate a week later at Potsdam the plans for their sudden, vigorous, and well-nigh successful assault upon the foundations of modern civilization and world order. It was in part, at least, to protect the rights of small nations that the Allied Powers assumed the heavy responsibility of opposing the formidable military machine of Germany. When, on January 10, 1917, the Allied Governments communicated their reply to President Wilson's request for a formal declaration of their aims and objects in the great conflict, they stated without ambiguity that above everything else they were fighting for a reorganization of Europe along well-defined lines of national groupings. In President Wilson's most concise statement of what he viewed as the real "issues" of the world-war, he put second in the list the unquestionable right of national self-determination in the territorial and economic as well as in the political sphere. As Lord Bryce had predicted, the most knotty disputes which have faced the Peace Conference have been "nearly all problems that involve the claims of peoples dissatisfied with their present rulers and seeking either independence or union with some kindred race." Finally, it is generally recognized that the only hope of a just and lasting peace lies in the provision of some satisfactory workable compromise or adjustment between the acceptance of the principle of national self-determination and the attainment of a stable world-organization. Assuredly,

then, an analysis of the meaning of nationality, a sketch of its historical development, and an investigation of the chief contemporary problems which it has created, are matters demanding the attention of every intelligent student of public affairs.

The Meaning of Nationality.—Important as is the principle of nationality in modern history and contemporary political problems, no term is more difficult to define with precision. This is due in part to the elusive and variable nature of the factors producing nationality itself, and in part to the confusion of terminology which has been introduced through the analysis of this concept by students from many fields, each with a different scheme of nomenclature. The first step in arriving at a notion of what is meant by nationality necessarily consists in clearing the field of several terms often loosely regarded as synonymous with nation, especially country, state, and government. To the term “country,” so widely used in a sense identical with what is usually meant by state and often by nation, no scientific meaning can be given other than the geographical habitat of a politically organized people. The concept “state” is more definite, but not less remote from identity with nation. The terminology of “international” law has done more than anything else to confuse the state with the nation. The state is purely a concept in public law, referring to the fundamental political unit of organized mankind. As distinguished from the state, the “government” is but the group of officials to whom, in accordance with the conditions embodied in the constitution of the state, are temporarily delegated the functions of political control and administration—the relation between the state and the government being similar to that existing between principal and agent in the ordinary business world.

Nationality, on the other hand, is not a political concept

in its deepest and most fundamental meaning and significance, but is rather a cultural or psychological force or principle, though in recent years it has tended to assume a distinctly political coloring and recognition. The difference between these two concepts has been well summarized by Mr. Alfred E. Zimmern in the following passage: "It is clear that there is a fundamental difference between the two conceptions. Nationality, like religion, is subjective; statehood is objective. Nationality is psychological; statehood is political. Nationality is a condition of mind; statehood is a condition in law. Nationality is a spiritual possession; statehood is an enforceable obligation. Nationality is a way of feeling, thinking and living; statehood is a condition inseparable from all civilized ways of living." Actual contemporary examples also furnish concrete evidence of the distinction between a state and a nation, such as the former Austro-Hungarian monarchy combining in a single state at least seven distinct nations, and the political division of the culturally united Scandinavian peoples.

In its most exact and fundamental sense "nationality" is the collective name given to that set of psychological and cultural forces which furnish the cohesive principle uniting a nation. As Mr. Zimmern has expressed this: "Nationality is a form of corporate consciousness of peculiar intensity, intimacy, and dignity, related to a definite home country. A nation is a body of people united by such a common consciousness." The same general point of view is set forth by M. Boutroux: "The will of a certain number of persons to live together in a country where they were born and where their personality received its impress, to cultivate together common memories, and to pursue common aims, is at once the essence and test of nationality."

In an ideal case, the elements creating this unifying

principle of nationality — this will to live together — would be a common and well-defined geographical habitat; racial homogeneity; a unified cultural complex, consisting of a community of language, literature, art, religion, customs, and historical traditions; a common historical experience of glory or suffering or both; and a mutuality of economic interests. But such a situation as this has rarely, if ever, existed, and the nation-building principle has generally depended upon the coexistence of only a few of these many and diverse unifying influences. The relative strength of each and all varies greatly with circumstances and localities. As Mr. Toynbee has pointed out, there have been instances where a great majority have been present and operating for generations without producing a nation, while a fiercely national spirit has been generated where only two or three have existed. Any situation which tends to produce self-consciousness on the part of a group, whether this be contact with other groups and cultures, or a common danger, or subjection to persecution, will inevitably strengthen the national sentiment. Beyond this it is scarcely possible to generalize; the circumstances and forces which have been most powerful in creating a specific nation can be discovered only by a careful analysis of its own developmental process.

A "nation" is the group held together by the principle of nationality. It is, says Renan, "a vast solidarity, established by the realization of the sacrifices which have been made and of those which may still be expected. It implies a past; in the present, however, it rests upon a tangible fact: consent, the clearly expressed desire to continue a common life." A nation is not, as such, a political entity in any sense, though in the last century there has been a general disposition on the part of nations to strive for and attain political independence and to acquire statehood.

When a nation achieves this, and adds the political element to its original and basic cultural character, it is then conventionally known as a "national state," the typical political unit of the modern world. The dynamic expression of the life, activities and sentiments of nations and national states is normally designated "nationalism," though this term is sometimes used in a broader analytical and descriptive sense to characterize the modern political order, based as it is upon the coexistence of a number of separate and independent national states. By the principle of "national self-determination" is meant the right and the power of each nation to settle the conditions of its own political and cultural existence: whether it prefers to continue as a part of another political organization, or will set up as an independent and separate political entity.

The Historical Background of the Problems of National Self-Determination.—The elements which have combined to create the modern national state system have been drawn from the contributions of every age since the origin of the first groupings of primitive men. It is this fact which gives plausibility to the doctrines of those who, like Israel Zangwill, find nationality to be a very ancient principle, and of those who, with Professor Holland Rose, believe nationality to be a force of relatively recent derivation.

From the experiences and reactions of early man in the tribal and other primitive groupings, which furnished the only adequate source of protection against the animals that were better armed by nature, there was developed that "herd-instinct" which has since been a most fundamental and characteristic factor in human development and furnishes to-day the psychological basis of modern patriotism. In the ancient city-states a transition was made from the personal basis of association, which had

been characteristic of primitive society, to a territorial and political type of grouping and social control, but these earliest political units were so small that the tribal psychology persisted with but little change. These city-states were soon swallowed up in the great patriarchal empires with which is generally associated the "state-making age." These gave mankind a valuable, if over severe, discipline in large political groups, tended to wipe out some of the tribal provincialism and localism, and served to forward that cultural assimilation which must precede the development of any truly national feeling. But these vast early empires passed away too quickly to make possible the assimilation of the diverse peoples within their boundaries, and even Rome only made a fair beginning in creating a universal cultural unity out of the Mediterranean world.

The conditions in the Middle Ages were ill adapted to developing national sentiment. There was a general return to a primitive barbarism during the first centuries. The Church and the Empire forwarded the universalism of Rome in religion, culture, and politics rather than the development of a distinctly national sentiment. At the other extreme, the small and isolated feudal domains, mediæval manors, and communes worked towards decentralization and localism rather than nationality. The dependence of the kings upon the feudal lords for taxes and soldiers prevented them from creating a national state during the feudal age. But with the dawn of modern history in that great movement of the sixteenth and seventeenth centuries known as the Commercial Revolution, the mediæval order passed away in western Europe. The royal income from the new commerce enabled the kings to provide a loyal army and officialdom, to render themselves independent of the feudal lords, and ultimately to reduce them to subjection and to establish the earliest distinctly national

political unit — the dynastic national state. This process was also powerfully assisted by the development of the vernacular languages and literatures, the revival of Roman law, and the religious divisions following the Protestant Revolt. But the national sentiment was dynastic and autocratic rather than popular and democratic until the psychological impulse from the French Revolution had thrilled both Europe and the New World. The shibboleth of "Fraternity" gave a dynamic and democratic coloring to nationality for the first time. This impulse culminated in the unsuccessful Revolutionary movements of 1848, when, according to Mr. Bryce, men vainly hoped "that the two sacred principles of Liberty and Nationality would, like twin guardian angels, lead the world into the paths of tranquil happiness, a Mazzinian paradise of moral dignity and liberty, a Cobdenian paradise of commercial prosperity and international peace."

The French Revolution, however, was unable to complete the development of modern nationality; for this there was required a far more sweeping transformation — the Industrial Revolution of the nineteenth century. The modern mechanism of communication was created which made possible the more complete union of nationality and democracy, and nationalized the primitive "herd instinct." The great increase of the bourgeoisie, the creation of the proletariat, and the emergence of both into the realm of government gave a political basis to the democratic foundations of the modern national spirit. The great expansion of industry and commerce produced the development of modern imperialism and world politics which, through their reactions upon the states of Europe, brought about a great increase in the volume and intensity of national sentiment. Had these great movements of modern history affected to an equal degree all the states of

Europe it is not likely that it would have required a disastrous world-war in the twentieth century to have brought the problems of nationality to something near a final solution. But the relatively slight contact of central, eastern, and southern Europe with the Commercial, French, and Industrial Revolutions produced a tragic postponement of the development of national independence and political democracy in these districts and left them in differing degrees the victims of autocracy and repression until July, 1914.

The Great War was fought to a very considerable degree upon the issue whether the repressed nations of Europe should be emancipated or subjected to a still greater degree of oppression. The complete downfall of the Central Powers, with their Balkan allies, has freed the submerged nations and given the Allies the opportunity to make good their avowed purpose of reconstructing the map of Europe according to the principle of national self-determination. The collapse of the Russian military empire has, at least temporarily, freed the Finns of Finland and Esthonia, the Letts and Lithuanians, the Poles, the Ruthenians of the Ukraine, and the Roumanians of Bessarabia. The well-nigh complete disintegration of Austria-Hungary released the Czecho-Slovaks, the Ruthenians of Galicia, the Roumanians of Transylvania, the Croats, Serbs, and Slovenes of Slavonia, Croatia, Bosnia, Herzegovina, and Carniola, and has removed from Balkan politics the sinister influence of Vienna and Budapest. The German eclipse has liberated Poles as well as French, and has probably brought to an end the hope of a German control of the district from Berlin to the Persian Gulf. The apparent final destruction of Turkish power will doubtless allow the handing over to Greece of the Greeks of southern Thrace and the coast of Asia Minor, and the granting to Bulgaria of her

just claims to the region about Adrianople. The readjustment thus brought about may bring several of the most knotty problems in the Balkans nearer to a solution. Italy's regaining of the Irredenta district should induce her to give up the Dodecanese islands in the Ægean to Greece. The vastly increased territory and population of Serbia, as a result of the Austrian débâcle, will make it impossible for Serbia to find just grounds for refusing to return Macedonia to Bulgaria. Likewise, the realization of a Greater Roumania should lead the government at Bucharest to return the southern Dobrudja to Bulgaria, and the Greek additions may well be sufficient to persuade Venizelos to give Bulgaria commercial access to Kavala. The collapse of the Turkish Empire should also bring independence or autonomy to the sorely oppressed nations of western Asia.

National Self-Determination and the Reconstruction of Europe. — The principle of national self-determination as applied to the reconstruction of Europe means, in its most fundamental and general sense, the redrawing of the map of Europe so that state lines will coincide as far as possible with the ethnographic boundaries of the distinct national units which have been heretofore either thwarted in obtaining complete political unity or denied any political independence and existence whatsoever. Any discussion of the desirability of the application of this principle to the solution of the boundary problems involved in the peace-settlement, however important theoretically, is irrelevant in this place. The Allied Powers have been formally committed to a defense of the principle of nationality and the rights of small nations from the beginning of the Great War, and for better or worse are morally bound to carry out their programme to its logical conclusion. At the same time, this guiding tenet of nationality must be accepted with reservations and should be governed in its applica-

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tion by general good judgment and common sense, or its enforcement would result merely in a return to something near complete political anarchy.

The chief question which is involved in any sane reconstruction of Europe on the basis of the national principle is not whether each minute and scattered national minority embedded in some historic state shall have complete political autonomy, but, as President Masaryk has well expressed it, "whether nations, conscious of their nationality, and proving the possibility of political independence by their economic and cultural progress, and by their claims and efforts for liberty, can be independent." This principle once accepted, however, the matter of its practical application becomes most important for the future. Any permanent peace arrangements, or any effective form of world organization, will presumably provide for the maintenance during a considerable period of years of the European boundaries approximately as they will be readjusted at the Paris Conference. Any mistakes made in this original redistribution of peoples and political units will persist to plague the authors and to jeopardize the peace of the world.

Assuming the possession of the best available ethnographic knowledge of the disputed districts of Europe, the scientific procedure in reconstruction according to the principle of national self-determination would be to block out those districts concerning whose national affiliations there can be no doubt on the basis of ethnic composition, language, history, national sentiment, or geographic situation, and then, in all disputed districts, submit the question of their national and political aspirations to the populations involved, by a true plébiscite under the control of the governments and armies of the Great Powers among the Allies. The right of the minorities to migrate and join

the nations of their choice should, of course, be rigorously observed. Such would be the ideal and only perfect method of adjustment, but this procedure would probably meet with stubborn local resistance and, if generally applied, would require more time than is now at the disposal of the Peace Conference after the long delays.

Nor have the small nations involved shown any great evidence of being desirous of aiding in a just and rapid peace by presenting claims determined by the scientific ethnographic knowledge available, or by the expressed wishes of the peoples concerned. Rather they have set forth programmes of annexation which embody the ambitious aspirations of the expansionists among the governing classes, who are eager to strengthen their respective states and their own political prestige by creditable additions of territory. The most perfect theoretical method of adjustment having been abandoned by the Paris Conference, the actual method of determining the future of the political groupings in the districts of conflicting national claims has been a compromise between an arbitrary adjustment on the basis of the ethnographic knowledge at the disposal of the committee dealing with boundaries, and the granting of the more or less grotesquely exaggerated claims presented by nearly every "small nation" that desires to achieve independence or increase the extent of its pre-war territory. While there is as yet only incomplete evidence as to the exact method which will be used in each and every case by the Peace Conference in determining the ultimate distribution of the contested districts, it is clear that a very considerable use will be made of the plébiscite. This method seems likely, however, to be utilized chiefly when it involves the settlement of disputes among the Allied states, or when it will probably result in the reduction of the territory of the defeated states.

There is no indication, for example, that it will be made use of in determining the disposition of German Austria or Bulgarian Macedonia.

While it is true that the very fact that the member states of the League will attempt to maintain in a general way the political system and national groupings created by the treaty of peace renders it of the very greatest importance that the settlement shall be as just and equitable as it is humanly possible to make it, yet it is very evident that the readjustment will contain many defects due to the necessity of compromising right and justice in the interests of time, expediency, and even the avenging reckoning of the victor. Though it would be exceedingly gratifying if the League might need to invoke its powers only to preserve an absolutely just settlement, it should be plain to all thoughtful persons that an effective League is much more indispensable to preserve the peace of the world following an imperfect readjustment than it would be if the settlement were perfect. A wholly just set of peace terms would have caused much less rancor, enmity, and deep-seated hatred than will be produced by the present treaty. Hence, the need of a League to enforce peace and world order will be much greater after the present treaty goes into force than it would have been following an entirely equitable adjustment. If the instances of injustice outweighed those of justice in the present settlement, it might be held that the preservation of such a readjustment would be worse than another war, but certainly the most vigorous critic of the treaty, if candid, must agree that the clauses which embody approximate justice probably exceed those which savor of revenge, and when to this real majority of fair and just terms there is added the all-essential element of order, peace, and world organization, the imperative necessity of providing some adequate agency to defend and pre-

serve the new political world which will be created by the Paris Conference needs no special arguments. It would require the utmost temerity to hold that the present settlement of national claims and disputes would endure a decade without the controlling force and influence of the League.

The Small Nations and a League of Nations. — The very direct and immediate bearing of a league of nations upon the problem of national self-determination and the creation of new states must be readily apparent to all thoughtful students of public questions. Without some form of world order and organization to curb national aggression, the application of the principle of national self-determination and the consequent creation of a crop of new national states would be a greater evil than a restoration of the condition which existed before the war, with its repression of national aspirations. If there is any one point upon which history, sociology, and political science are agreed, it is that the more states there are in existence, the greater will be the opportunities for, and probabilities of, war. History shows that the growth in the size of political aggregates has been both a prime feature of social evolution and the most effective factor which has been thus far devised to reduce the frequency of wars. Merely to bring into being a large number of small national states would not only reverse the natural course of political evolution, but would invite the certain recrudescence of a warfare like that which accompanied the nationalistic upheavals of the sixteenth and seventeenth centuries, rendered all the more horrible by the fatal effectiveness of the modern engines of war and destruction. It would have been better to allow Germany, Russia, and Austria-Hungary to go on with the process of welding these lesser national groups into larger, if autocratic, political entities.

But with a sanely conceived and wisely constructed world organization, the smaller nations may be emancipated and elevated to statehood with a very considerable benefit to the totality of civilization and with no serious drawbacks. Indeed, it may be held that such a solution is really an advance over the normal process of political development. By creating a stable international organization, comprising a large number of politically autonomous nations, not only will there be provided a larger juridical aggregate than the world has ever before witnessed, but there will be secured that orderly and natural development, differentiation, and coördination of parts which seem but essential accompaniments of the evolution of political as well as social organisms. And all of this would be achieved by the peaceful legislative act of man, and would escape the tardy and expensive method of natural evolution through the application of force. With their military wings properly clipped, independent national states would constitute a political system which might be relied upon to advance materially the progress of civilization. A great psychological stimulus to cultural activity comes from complete national autonomy. Assurance of freedom from exploitation or confiscation by a ruling caste must always prove an incentive to greater economic development. Further, national autonomy advances political democracy by freeing subject peoples and bestowing upon them the power of determining the form of government under which they desire to live. Finally, a better and more democratic social system is thereby ensured by eliminating a foreign ruling caste, and by allowing peoples to live with their kind and with those whom they understand and with whom they can enter into those forms of coöperative activity so essential to social life. As these are fruits of victory worth conserving, and as they will be worse than lost

without a league of nations, the absolutely indispensable necessity of such an organization becomes more than ever apparent.

This is not the proper place to discuss the organization of either an abstract league of nations or that devised by the Paris Conference; but there is one subject connected with the organization of any league of states which is associated in a peculiar sense with the problem of "small nations," namely, the matter of representation upon the executive, legislative, and judicial organs. It must be admitted that it is likely to prove a fatal defect if there is equality of all states, large and small, in the governing bodies of the world organization. This seems undeniable, either on the basis of the actual experience in the Hague Conferences and Court, or from the standpoint of theoretical analysis. Such an arrangement would be a great handicap whether the necessary vote to secure effective action by the League is some sort of a majority or complete unanimity. There can be no effective political organization, national or international, unless equality of rights, powers, and rewards is accompanied by equality of duties and obligations. As the small states cannot, on account of lack of both wealth and population, assume an equality of obligation, they cannot demand an equality of power. In all cases where this equality has been admitted, the small states have been strong protagonists of an equality of voting power and equally vigorous exponents of an assessment of expenses on the basis of the population of the states involved. It may be readily granted that, as a distinguished publicist has asserted, "all states are *equally* sovereign states, but are not *equal* sovereign states." No one would deny that every state, large or small, should receive identical justice at the bar of the nations; but this in no way involves the necessity of conferring an equal power upon all

in drafting the law of nations. It would be better temporarily to lose the adherence of a number of small nations at the outset, than to paralyze the whole organization by humoring the inflated and petulant pride of three or four infinitesimal political entities. With a large nucleus of the world's greatest powers and the more politic and statesmanlike of the small states in the League of Nations, the ordinary sanctions of international law and the power of economic boycott will suffice to coerce recalcitrant small states until they are glad to join the League and conform to the necessities imposed by any workable form of international organization. Finally, the granting of a perfect equality of voting power to all states regardless of population would block one of the most desirable policies which it would be the function of the League to advance in the future, namely, the federation of these newly created small states into larger political groupings. It is not likely that three or four of these states would be greatly encouraged to merge, if, when combined, they had no greater power in the League Assembly than each possessed before the junction. The provision in the present League Covenant for the predominance of the Great Powers on the Council and of equality of states in the Assembly is a hazardous, if expedient, compromise. The Covenant thereby practically fails to establish that essential equality between rights and duties. It provides that "at meetings of the Assembly each member of the League shall have one vote," while at the same time it declares that "the expenses of the Secretariat shall be borne by the members of the League in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union."

One of the most obvious duties imposed upon a league of nations in regard to its lesser members is to determine and to safeguard the boundaries of these small states.

Some conception of the difficulty of the original task of determining the just boundaries according to the principle of nationality has been pointed out above; but the labors of the League do not end here. Any arrangement which did not provide for alterations of boundaries would be entirely rigid and unadapted to a dynamic world order. Provision must be made for shifts of population and redistribution of national units. It is necessary to remember the great element of truth in the thesis of the eminent Belgian sociologist, Guillaume De Greef, that political, and even natural geographic, frontiers are at best but artificial lines of demarcation separating living social organisms, and that the real frontiers are social and are determined and altered, even in the absence of war, by the continually changing equilibration of social pressure in favor of the state with the greatest degree of strength and vigor. This principle is particularly valid in the case of most of the newly created national states that lack well-defined geographical boundaries. It has been suggested by the most distinguished American statesman in the field of international relations that this guaranty of boundaries extend only over a period of five years, thus ensuring stability during the period of organization and readjustment after the Great War. It would seem that this laudable proposal would be still further improved if it were changed to provide for a perpetual guaranty against aggression and forced changes of boundaries, but allowed voluntary readjustments of boundaries at any time or at specified intervals. It is apparently safe and fair to assert that the clause in the Covenant of the League, as adopted by the Paris Conference, to the effect that "the members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all members of the League," will, if liber-

ally interpreted, meet the desirable requirements in this matter. As the guaranty is to be merely against "external aggression" it could hardly be an obstacle to voluntary alterations of the boundaries by the states concerned, or to voluntary unions of member-states. Some eminent authorities maintain, with considerable justification, that it would even be legally possible for the League to alter the boundaries of the small states, as fixed by the Paris Conference, if further information or a radical change of conditions seemed to render such action necessary or highly desirable in the interests of the peace and good-will of the world.

One of the chief arguments brought forward against granting political independence to a large number of small nations being the alleged increased possibility of international disputes, it is obvious that any satisfactory plan of world organization must meet this objection by provisions requiring that international disputes be submitted to arbitration, or, at least, to investigation. Specific provision is made for this very essential element in the functions and duties of the League of Nations by the terms of Article XII, which states that "the members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council." This arrangement, together with those stipulations making for the elimination of secret diplomacy, the enforced delay in declaring war, and the reduction of armaments, may justly be regarded as sufficient to reduce to a minimum the probability of a greater frequency of war resulting from the present political emergence of the small nations. It is, further, highly probable that, as the League develops through working practice, the scope of its peace-making and peace-perpetuating powers will be increased, and that

the organs for effecting this end will be made more swift and certain in their operation. If it be objected that these provisions will operate only in the case of those small nations that are members of the League, it may safely be asserted in the light of Article XVII that, if the great powers of the world and a considerable portion of the lesser ones are represented in the League, no small state will risk a war which the League openly condemns. Finally, the mandatory system applied to the more primitive communities will eliminate the possibility of continuous friction and wrangling which has so generally characterized backward peoples; and when applied to weak states, it will prevent them from becoming a field for economic exploitation at the hands of more powerful nations.

It is apparent, moreover, that the League should foster and encourage voluntary and mutually beneficial unions of two or more small states in either an economic or a political sense. This may begin with the Balkan *Zollverein* which Mr. Toynbee discusses with such acumen, or with such a league of Balkan states as was organized to battle with the Turk in 1912. A mid-European union, from Pressburg to Riga, would also be a commendable project, if organized on a liberal basis and with the voluntary consent of all nations concerned. In short, the League should constantly evoke the aid and further the operation of that "law of contiguous coöperation," concerning which Mr. Zangwill has written so eloquently, until the small states are gradually self-eliminated in a political sense, while retaining a complete degree of national cultural autonomy. In this way, and this only, can the normal course of political evolution be completely harmonized with the principles of democracy and nationality; for, as Mr. Zangwill has said, "the culmination of modern history, so far from lying in every petty swashbuckling race setting up for itself, is

seen to consist in their fusion. A few such leviathans, and we may easily fasten them with a hook." Nationality is in its essence a psychological or cultural fact, and the impulse to a political recognition of this principle arose almost solely from the fact that political independence seemed the only possible mode of realizing cultural autonomy. When this is no longer the case, the political coloring of nationality may be trusted gradually to vanish. It will be readily evident, however, that in promoting this generally desirable union of small national states great care should be taken to prevent the formation of larger groupings of a distinctly antagonistic character. Rivalries among the small nations can be more easily and safely adjusted by the League if it can deal with a number of separate and divided rivals instead of two extensive and powerful opposed groups whose very strength and power will make them proportionately likely to resent or resist external control.

In one way in particular should an effective league of nations concern itself with the domestic policy of the small national states, namely, in the matter of guaranteeing legal and political equality to the minority nations within their territory, as, for example, the Germans of Bohemia, or the Magyars of Transylvania. The emancipated nations should be prevented from repeating on a smaller scale the oppression from which they have themselves just been delivered. Of course, the most perfect solution of this problem would be to indemnify the minority for their property and lands and allow them to migrate and join their home country; but such a plan is not likely to be adopted, nor would it be practicable in some cases. If the minorities remain, they should be granted full political and legal rights with the majority nation, but could expect no special privileges. President Masaryk has well stated his recogni-

tion of the necessity of observing the rights of minorities in his official pronouncement of the policy of the new Czecho-Slovak state: "In reaffirming the historical boundary lines of Bohemia, Moravia, and Silesia, there will of necessity be included some Germans among the population, notably in the west and north, but we shall confer upon communities of this kind the same local self-government that obtains in other parts of the country." It must be admitted that any definite provision for the enforcement of this important policy seems to be absent from the text of the Covenant of the present League. Indeed, it would seem to be expressly prohibited, in that the Council of the League is prevented from even passing an opinion upon a matter falling "solely within the domestic jurisdiction of a state." That most nations, large and small, will regard the treatment of minorities as a matter of "domestic jurisdiction" is not to be doubted. To be sure, this is a matter of secondary importance, but if neglected, it will make the reconciliation of nationality and democracy fail of assurance. This evident defect in the League Covenant will be to some extent remedied by specific guaranties to certain minorities through the provisions of the general treaty of peace of which the Covenant is a part, but it is to be regretted that the protection of minorities has not been embodied as a principle of general application to be enforced by the League.

Conclusion.—The foregoing brief discussion of the chief contemporary problems created by the principle of nationality and its allied manifestations and institutions should make it clear that both the world-war and the task of reconstruction are especially related to the subject of nationality. The war was produced primarily by that ultra-nationalistic and super-patriotic intoxication, which had most completely overcome the Central Powers; the

Allies have carried on the war in part to bring about the emancipation of the hitherto repressed nations; and their victory has imposed upon them the task of carrying to final execution this redistribution of the peoples of Europe according to the principle of national self-determination. Their work could not, however, be either complete or permanent without an effective League of Nations to offset the greater probability of war from the creation of more national states; to preserve the world order created at the Peace Conference by the guaranteeing of the small nations against external aggression and by compelling them to submit their disputes to arbitration or investigation; to promote the desirable political and economic union of the small states in larger organizations which will ensure order and progress, as well as national cultural autonomy; and to encourage and forward, even if it is impossible fully to guarantee, the rights of minorities within these lesser newly created or greatly augmented national states.

CHAPTER X

THE LEAGUE OF NATIONS AND ECONOMIC INTERNATIONALISM

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Equality of opportunity for commerce, for investment of capital, and for participation in the development of the world's resources, is the first condition for the progress of national civilization in the world. — JOHN A. HOBSON.

The surest way of keeping the League together will be to attach to membership of it economic advantages so evident and so large that no sane nation will venture to forfeit them by secession, or by disloyal conduct to bring about its own eviction. — H. N. BRAILSFORD.

IF, as Clausewitz asserted, war is an extension of political policy by other means, it may be asserted with equal frankness that, in the practical outworkings of international relations, economic policy has been too frequently an extension of war by other means. This is the inevitable result of a predominantly political determination of economic policy. International politics and international economics present a strangely tangled play of forces. By every known law of logic, by every intelligent tracing of cause and effect, the hope was justified that the modern business system, with its lithe arms of transportation and communication, with its frontier-crossing agencies of credit, contract, capital, and corporate organization, would bind the world together into an acknowledged interdependence and a statesmanlike coöperation. The rise of the modern business system made possible, for the first time in history, a realistic internationalism, an internationalism arising naturally from an intelligent administration of food, clothing, and shelter in an interdependent

world. But the hope was to be denied fruition. The forces of the modern business system were gathered into national arsenals, as added weapons for defense or aggression, as the turn of the game or the temper of the national mind might dictate. Forces that might have cemented the world have sundered it.

The Economic Motive in War.—There is no justified avoidance of the conclusion that most modern wars are at their base predominantly economic in motive. Not that foreign offices attach materialistic labels to their war-aims; not that bread-and-butter motives are baldly displayed on the banners that are used to stimulate morale; but the thing that usually gives the show of validity at home to a war-policy is the existence, actual or assumed, of an economic necessity, in the attainment of which the nation is, or may be made to appear, threatened or thwarted.

This fact was never more tellingly dramatized than in the late war. The three slogans, "world power," "a place in the sun," and "freedom of the seas," — slogans that were the sustaining tonic of Germany's policy of aggression, — awakened popular enthusiasm, not solely because Germans were docile followers of Hohenzollern edicts, but fundamentally because of a very real sense of constriction that Germans felt when they pressed outward toward new fields with their goods, their capital, their labor, and their surplus population, as a man feels constricted in a stuffy room. It may be said that, in the case of Germany, this sense of constriction was deliberately suggested and sustained by imperialistic statesmen. It is, of course, true that Germany's statesmen, her professors, and her publicists continually and with artful guile dinned into German ears that the German nation had come late into a preëmpted world; that the German nation was the victim

of a *status quo* in the determination of which the modern Germany had no voice. It may rightly be contended that Germany was, by her dogged persistence and superb concentration upon the industrial arts, winning a place in the world of which any nation might have been justifiably proud; it may justly be argued that colonial ownership is neither an unmixed blessing nor an assured profit; it is, indeed, an axiom that it is not necessary to own a country in order to profit by it. But it is of basic importance to remember, in any consideration of the causes of modern wars, that it is not so much what men's interests really are as what they think their interests are that prompts them to action.

So it is beside the mark to spend time arguing whether the German sense of constriction was justifiable and spontaneous, or adroitly cultivated by designing militarists drunk with dreams of empire; the fact remains that this sense of constriction upon the part of the German people was the fertile soil in which the doctrines of Treitschke and the whole gospel of Kultur took root. Without that soil of disaffection the history of Germany might have been different, and the whole world spared much that it has suffered.

Four Basic Economic Rights.—There are four basic economic rights that every virile industrial nation must enjoy, if it is to be a creative and contented factor in international relations: the right of *transit*, the right of *trade*, the right of *investment*, and the right of *migration*. The prosperity and progress of a modern industrial or agricultural nation requires that the international railways and canals, the seas, the ports of the world shall be free for the transit and entry of the nation's goods; that in access to markets the nation shall not be unduly discriminated against; that the free capital of the nation

shall not be denied adequate play and equitable privilege in the development of the resources of backward territories of the world; and that the surplus population of the nation shall not be barred from entering more sparsely settled regions of greater opportunity.

For these four rights peoples have always fought, and for them peoples will continue to fight until the statesman excels the soldier in assuring them for all peoples. We need not go to pre-war Germany or to the pre-war international order for substantiating illustration of this contention. At Paris, in plenary sessions, in Council of Ten, and in Council of Four, at the very cradle-side of a league of nations, an orgy of conflicting nationalistic claims which smack of the frankest economic imperialism bears stubborn evidence that nations will not lightly cast aside the instruments and methods of the old order until there is trustworthy assurance that these four fundamental rights, at least, can be guaranteed by a new order.

Political Internationalism—a Half-Measure.—In the face of these indisputable facts, a merely political league of nations, confining itself to the arbitral or conciliatory settlement of disputes after they had arisen, would be only a Dame Partington gesture at an irresistible tide: it would leave untouched the causative sources of modern wars; it would merely shove down over masses of explosive material a judicial framework that would sooner or later be blown to pieces. No one at this late hour in history, save a few gray-minded statesmen, questions the fact that, in the event of a breakdown either in the initiation or operation of a league of nations, we shall be forced to begin another suicidal rivalry in armaments that will throw the business and industry of the whole world upon an abnormal basis of procedure, involve a costly process of political interference with economic law, force all nations

to try to turn themselves into self-sufficient economic units in direct opposition to the growing interdependence of the modern world, necessitate excessive taxation which will breed revolutionary discontent in even the most conservative societies and sooner or later sweep us into another war. It is evident, beyond need of emphasis, that in a world of untempered competition between nations that act upon the principle of "let him keep who has, and let him get who can," the healthy desire of every nation for the basic economic rights of transit, trade, investment, and migration must ever result in continuous interstate suspicion, military rivalry, and periodic conflicts.

Even a league of nations will not alter this situation unless it is an adequate league, and, as already suggested, an adequate league of nations must not only devise machinery and methods for preventing the outbreak of war in times when international relations are strained and passions run hot, but must in addition carry on a continuous dealing with the causes of friction, and boldly face the problem of the organization of progress. A league of nations that concentrated too exclusively upon a negative police function would tend sooner or later to become a reactionary factor in international affairs; its temptation would be to adjudge peace more precious than progress; it would make for a crystallization of the *status quo* that would cramp the growing energies of the world and make an explosion inevitable; for you cannot throw a bar across the pathway of healthy growth and expect servile submission from virile peoples.

Political Association plus Economic Partnership.—One of the younger platitudes that meets us at every corner in the liberal literature of our time is the statement that, without economic democracy, political democracy is a doubtful guaranty of justice and progress — a sop to

the disinherited. The purpose of this paper demands the statement of a corollary of this, namely, that political internationalism is powerless to keep the peace of the world unless it be supplemented by economic internationalism. Here is at once the point of greatest hope and greatest difficulty. A large number of men, in positions of responsibility in business and industry, perceive in this sort of statement the possibility of an increasing measure of governmental control over business and industry — an international added to a national control under which many are already growing restive. There was a genuine, although suppressed, restlessness on the part of many business men under the degree of international supervision of business and industrial relations exerted during the war. It should be remembered, however, that economic organization devised during the war did not create the burdens and hardships of which certain business men complained. On the contrary, the international organization afforded relief and mitigation. It abolished unnecessary risks, equalized responsibility, and, to a marked degree, prevented exploitation. Economic statesmanship should be able to exercise such supervisory functions even more in times of peace.

The purpose of this paper, however, is not to make a detached examination of the necessity for international coöperation in economic matters as a matter by itself, but rather to contend that even the most finely conceived political league of nations will utterly fail in the attempt to keep the peace of the world unless a constructive attempt at economic internationalism is made. In other words, the writer is, for the sake of argument, looking upon the League of Nations as an end in itself, although it is only a means to an end, and contending that the League cannot endure without economic internationalism; that a new

political order is impossible save as the expression of a new economic order.

The legalist is prone to over-simplify both the problem and the solution. It has often been pointed out that law and order and a pacific habit do not come automatically, even in small communities, when a given stage of culture is reached; that in our Western pioneer communities the bowie-knife and the pistol flourished, among men quite as cultivated as their cousins in London or Brighton, until the vigilance committee, the sheriff, and the court came to give protection and to afford a more civilized procedure for settling disputes; and that the submarine, the bombing-plane, and the big gun will flourish until some super-national authority is set up to play vigilance committee and sheriff to the nations. At this point the legalist is likely to stop, with the feeling that analogy has fully stated the case for him. But keeping the peace, even in a municipality, is not the negative and narrow task it is too frequently assumed to be. It is not the municipal court, the policeman, and the probation officer that hold the local community together. The fact is that it is the administration of health, of education, of trade, and the various local functions required by common necessity that unify and stabilize the local community. And this is literally and in detail true of the international situation. Clearly the continuing effectiveness of a league of nations will depend upon the coöperation of the world's administrative genius no less than upon the coöperation of the world's armies and navies. Lasting peace must remain the futile dream of a blind hope until the administrative ingenuity of the world devises constructive methods for a coöperative guaranty to all nations of the four basic economic rights of transit, trade, investment, and migration before enumerated. If a league of nations affects to ignore or

proves unable to harmonize the economic relations of the world, we may well despair of its power to rationalize the political and military policies of the world.

Coöperation or Chaos.—It is clearly beyond the possible to pacify the world by any arbitrary distribution of territory and readjustment of strategic frontiers. A glance at the complex of claims that underlie the recent war shows the hopelessness of any attempt to achieve lasting peace by a distribution of stakes or a division of spoils. In the early months of the war, the Reform Club of New York issued a memorandum on the international situation which has been widely quoted, and which will be illuminating at this point. The memorandum, in part, says:—

Serbia wants a window on the sea, and is shut out by Austrian influence.

Austria wants an outlet in the East — Constantinople or Salonica.

Russia wants ice-free ports in the Baltic and Pacific, Constantinople, and a free outlet from the Black Sea into the Mediterranean.

Germany claims to be hemmed in by a ring of steel, and needs the facilities of Antwerp and Rotterdam for the Rhine Valley commerce, security against being shut out from the East by commercial restrictions in the overland route, and freedom of the seas for her foreign commerce.

England must receive uninterrupted supplies of food and raw materials, and her overseas communications must be maintained.

Japan, like Germany, must have opportunity for her expanding population, industries, and commerce.

All nations that are not in possession of satisfactory harbors on the sea demand outlets, and cannot and ought not to be contented till they get them.

Nations desiring to extend their colonial enterprises entertain these ambitions for commercial reasons, either to possess markets from which they cannot be excluded, or to develop such markets for themselves, and be able to exclude others from them when they so determine.

The fortunes of war have, of course, shifted the scene since this memorandum was written; but regardless of Russian revolutions and German débâcles and Paris "settlements," the economic necessities that stood in the background of these demands remain. The way out of such a tangled situation quite clearly does not lie through the nationalizing of ownership of this territory and that port, but through the internationalizing of economic opportunity the world over.

What Economic Internationalism is not.—This does not involve the necessity for any hard-and-fast international economic government; it does not imply the handing over of the world's business to an economic generalissimo, a Foch of commerce; it does not forecast a world in which nations will stand in a sort of international bread-line, awaiting ration-tickets for foodstuffs, raw materials, and cargo-space. It does imply a statesmanlike treatment of such problems as the control and development of backward territories, the export of capital, concessions, access to the sea, port-administration, immigration, tariffs, and related problems of world economics. In short, it implies a courageous and constructive extension of economic internationalism in the interest of an equality of economic opportunity, the previous lack of which has covered the world with an entangling web of suspicions and has engendered war.

Regulation of Trade under the League of Nations.—Other papers in this volume deal with agencies and policies respecting economic relations and opportunity that must become the administrative concern of a realistic league of nations. The specific concern of this paper is the part tariffs and trade-regulations may play in the promotion or defeat of a practically possible economic internationalism.

The League and Tariffs.—At the outset it must be recognized that no nation is ready to hand over the sovereign right of tariff regulation to an international agency; nor does the League of Nations conceived at Paris provide for the assumption of any such power. To those who see in free trade the cornerstone of economic internationalism, there would seem to be little immediate hope. If anything, the war has set the current away from free trade by awakening new policies of protection and stimulating a desire for greater economic self-sufficiency upon the part of the nations hardest hit by the fact of their dependence upon other nations for foodstuffs and basic raw materials during the war.

The League of Nations proposed at Paris, in its revised Covenant, confines its pronouncements upon trade regulations to this general statement:—

“Article XXIII. [Freedom of Transit.]

“Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League . . . (e) will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League.”

About all that may be said with assurance at this time is that, while the League does not assume to take from any nation its sovereign power over its own tariff policy, it sets instruments and processes at work that will educate the world to a recognition of the fallacy of any policy other than one of the utmost commercial freedom. The current of world evolution cannot be reversed in its channel; the forces of modern life are making for a world economy in which each nation shall be free to specialize upon the things to which it can bring the greatest productive efficiency and economy, and shall not be penalized by

politically conceived tariffs for so doing. The temper of the several national minds just now will hardly permit a league's doing very much by decree toward this end; but the net result of the existence and operation of a league of nations promises to be a greater and greater acknowledgment of the ultimate costliness of any tariff policy that levies discriminations from motives of political hostility. The League of Nations, by the very fact of setting up the instruments and methods of international counsel, promises to dramatize the political and economic insanity of trade wars, and by establishing the habit of considering international relations from the international rather than the narrowly nationalistic point of view, to expose the fallacy of substituting a war of tariffs for a war of trenches.

Wars of trade discrimination violate the essential principles of scientific protection as well as the principles of free trade. Even the Protectionist may lend his aid to the League in its influence against the new political protection that is springing from the abnormal war mind. H. N. Brailsford, in "A League of Nations," says on this point:—

"The new political protection . . . seeks, not to obtain advantages for ourselves but to inflict injury on others. The skilful constructor of a tariff considers minutely what is the minimum stimulus, in the shape of a protective duty, that he must administer to a growing, a struggling, or a decadent trade in order to insure its development or recovery, and he will not allow himself to be driven by the least fraction above that minimum, lest he demoralize instead of strengthen the trade in question, and enable it to advance its prices, to the detriment of the consumer, far beyond what a reasonable margin of profit demands. The new protection is debarred from such nice graduation of duties as this."

The war has stimulated a new protectionism that attempts to base economics upon politics, but the give-and-take of counsel in the League will undoubtedly make for a more scientific consideration of tariffs and trade regulations.

Most of the highly developed states of the world are committed to a policy of protection, and the need for revenue and the believed need for greater economic self-sufficiency in the next few years will doubtless render the rapid and extensive application of the principle of commercial freedom between them a difficult matter. Of course, the stars in their courses are fighting for the utmost extension of that economic freedom which is the final guaranty of a relatively pacific world. Even without a league of nations, the world would ultimately move toward freer trade; not, however, before going through an era of costly economic competition and of exaggerated protection in which, after all nations have erected high tariff walls, the advantages of protection for any one nation will disappear, and the system break down under the weight of its own absurdity, and the nations bargain their way back toward saner tariffs. We have this far-off hope, at least, for greater economic freedom, and the League of Nations will add conscious planning to this natural evolution, thus speeding up the process.

The Importance of Trade Regulations.—Tariffs and trade regulation condition the settlement of practically all the issues involved in the economic relations of nations. It is idle to talk of a constructive settlement of the problem of economic rights of way, for instance, until we arrive at some practical method for according equality of economic opportunity in the movement of goods from source to market. Heretofore the geographical position of one state has been used as an eco-

conomic weapon against a competing state by manipulation of tariffs, railway freight rates, commodity entrance and transit regulations, river tolls, harbor duties, and even sanitary regulations at points of entrance or exit for goods. Tariff and trade regulation have been the thumb that could be pressed down upon arteries of transportation, shutting off the financial life-blood of the economically imprisoned nation. All this must be changed. World trade must be made a competition in excellence instead of a battle between strategically placed and ill placed nations. In war, armies are used to cut lines of military communication; in peace, tariffs and trade regulations have been used to cut lines of economic communication. That must ever mean a peace that is only latent war. There must be greater freedom of trade, or we might as well stop talking about lasting peace. A league of nations that does not attack this fundamental problem is only a gigantic play with irrelevancies.

Backward Territories as a Laboratory for Economic Internationalism.—There are, as already suggested, distinct forces making against the desirable freedom of trade between the highly developed nations; but there is afforded an opportunity to make a laboratory experiment in economic internationalism in the backward territories of the world. Economic internationalism carried out in the backward territories of the world would do more than any other one thing to create the atmosphere in which a league of nations can live and administer a lasting peace. There can be no lasting peace while an exclusive and narrowly nationalistic policy of competition respecting overseas possessions obtains. If an unequally divided political control of Africa and Asia is used, through protective tariffs, concessions, and other means of bolstering up exclusive privileges, to exclude

other nations from participation in the economic privileges and opportunities of these areas and of spheres of influence, it is inevitable that the economic contest of the future will pass progressively through the three fields of business, diplomacy, and war. This will be true not solely in the event of a reënacting of the German dream of imperialistic expansion. If the world is rigidly compartmentalized by policies of exclusion and nationalistic privilege, it will be only a question of time until the entirely legitimate demands of healthy growth will give rise to "place-in-the-sun" demands upon the part even of nations now most loudly preaching international idealism.

A policy of coöperation and equality of economic opportunity in the undeveloped regions of the world, expressed in the open door, freer trade in backward regions and dependencies, and truly international control by national financial groups in collaboration with their own governments, will not, in the final analysis, mean any fundamental sacrifice of the economic interest of any state. Such degree of these policies as has been put into effect in the past may have meant a sacrifice of the interests of the African and Asiatic peoples, but certainly not of the exploiting states. The sacrifice of native interests must, of course, be obviated as the Covenant of the League proposes; but the thing that needs to be insisted upon is that the intelligent self-interest of all states demands such policies.

Why the Open Door has not fully Succeeded.—In the case of China, the right policies were enunciated, for instance. There the principle of the open door and the most-favored-nation clause were adopted. The difficulty was that the agreement was not adequately guaranteed. It was not based upon a genuinely common international agreement. It was embodied only in several distinct

treaties between the various powers and China, and in the informal pronouncements of statesmen. The situation demands a genuinely international agreement, and the setting up of genuinely international machinery for carrying the provisions into effect and seeing to it that violations of the agreement are dealt with by effectively peaceful methods. All this a league of nations provides.

A league of nations affords the medium for making a genuinely international agreement, for establishing the right principles to govern the economic situation in question and similar situations. It can lay down the principles of the open door and equality of access to these regions for trade, investment, and labor, and it can devise and administer, under adequate international guaranties, regularized common action in finance, railway construction, and other development along the suggested lines of the Sextuple Syndicate in China. The League can use such methods as the Six-Power Loan under real international control, whereas the methods might be of doubtful justice and shortsighted statesmanship if administered by a clique of designing financiers in league with competing foreign offices.

Although it is outside the specific concern of this paper, it should be said that the principles of the open door and the most-favored-nation clause need to be supplemented by international arrangements that will guarantee just allocation and distribution of raw materials to the industrial nations. But certainly there is no clear way out of the troublesome situation in the backward territories save through the open door and most-favored-nation principles. Policies of exclusion, systems of privilege, and politically determined preferential tariffs must give way to the saner policies of economic statesmanship.

It may be worth while to emphasize the fact that the

open-door policy of international trade does not imply the abolition of tariffs for revenue, and may indeed permit protective tariffs if the protection is designed to stand guard over human interests as against purely financial interests; that is to say, it may permit protective tariffs designed to guard the standard of living of wage-earners or properly to diversify the industries of the nation levying the tariff. If the tariff in question is made to apply equally to all nations, it may be entirely compatible with a broad interpretation of the open door.

The realization of the open door would relieve the pressure that competing financial groups have heretofore exerted upon their respective foreign offices. It would make for international as against national syndicates, and would thus give free rein to modern finance, which is inherently coöperative when not warped by political nationalism. It would prevent financial groups from turning the foreign offices of their nations into private insurance companies and collection agencies, and thereby remove one of the primary causes of modern wars.

It is clear that trade and capital the world over need the open door; but it is equally true that the interests of labor demand the open door. Capital needs the open door to guarantee to it the right of investment referred to earlier in this paper; labor needs the open door to guarantee to it the right of migration. All this is, of course, entangled in the racial antagonisms that threaten the future peace of the world, and no final solution of the problem involved in the asserted right of migration may be expected at an early date; but a league of nations wisely applying the principle of the open door in the light of the facts, and holding constantly in view the goal of greater and greater freedom in the matters of transit, trade, investment, and migration, will go far toward a solution. While a league

will quite clearly be unable to remove at one stroke the rigid restrictions upon the direction, kind, and rate of migration of colored populations to white lands, it will be able undoubtedly to effect open-door arrangements in the tropics which will in some degree reduce the resentment now felt by such civilized nations as China, Japan, and India.

Common sense would seem to suggest a universal return to the practice of most-favored-nation treatment among all nations that are at peace. This phrase sounds more generous than its literal meaning, but it does, at least, render tariff wars less likely and afford a substantial measure of guaranty against purely political discrimination in trade. And without such guaranty the viability of any league of nations is doubtful. We are frankly in the dark at this time as to the course which the League of Nations may pursue on specific problems — the one point of hope, as before suggested, is that it sets up the instruments and establishes the methods of common counsel among the nations that will ultimately make for greater sanity in the economic administration of the world; and sane, free, and just economic policies among the nations represent the *sine qua non* of lasting peace.

CHAPTER XI

THE PROBLEM OF BACKWARD AREAS AND OF COLONIES

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I. THE PROBLEM ANALYZED

National Power. — National power, in the modern political world, is measured, not by territorial area, but by economic and military strength; and the economic and military factors will usually be found in direct ratio. The present laudable effort to blunt the military weapon as a determining factor in the settlement of international disputes deserves encouragement, although it is open to question whether world organization has yet reached the stage where the powerful nations, the only ones which here enter into consideration, will be willing to substitute for reliance upon their own strength confidence in the action of a group whose members, unfortunately, will often have opposing interests. Whatever success, however, may ultimately attend the efforts at voluntary disarmament, nothing has been proposed to regulate international economic competition, which, especially when directed to the exploited areas of the world, is likely to furnish the initial step to international friction.

National Economic Groups. — Roughly speaking, the nations of the world may be divided into two economic groups: (1) those which export capital, and (2) those which import capital. The countries in the former group are relatively few, namely, those of Western Europe, the United States, and possibly Japan; the countries of the

latter group are many, and number among them the states of South and Central America, Africa, the Near East and the Far East, except possibly Japan. The states of the latter group vary in economic development and political status. Some are almost undeveloped and are possessed or controlled by one of the powerful states of the first group; others are relatively independent politically, but their economic resources are controlled by capitalists of the first group. The effect of this economic condition upon political control is manifest in varying degree. To be sure, the classification of specific nations is not always clear; for example, some countries, like the Scandinavian, are practically self-sustaining; or else, like Japan and the United States before the war, the amount of invested capital imported balances measurably the amount exported. Moreover, even in the greatest exporting country, a certain amount of foreign capital will always be found. We may call these two groups respectively the "exploiting" and the "exploited" countries, terms which are not used in a derogatory or an opprobrious sense.

Beginnings of Overseas Investment. — The earliest modern examples of overseas investment developed under the *laissez faire* doctrine of England. The various trading companies of the sixteenth, seventeenth, and eighteenth centuries gave English investors and manufacturers a start of more than a hundred years over any other investing country, and the result of England's enterprise — or rather, initially, that of her private "adventurers" and capital — is the modern British Empire. That such economic expansion is by no means necessarily dependent upon *laissez faire* is demonstrated by the experience of Germany, which in half a century became a formidable rival among exporting nations. Realizing the weakness of *laissez faire*, she consciously adopted a policy of state

encouragement and stimulation of exports of goods and capital. More recently our own government, in the Webb Act, legalizing the consolidation of export associations for the advancement of foreign trade, and in the authorization of government loans to individual American exporters through the War Finance Corporation, has given tangible evidence of its belief in the desuetude of *laissez faire* in foreign trade. Whatever the economic doctrine, therefore, nations measure their prosperity largely by the volume of their foreign trade.

Export of Capital: Cause and Effect.—Capital for export accumulates naturally through the excess of exports over imports, requiring gold remittances from the purchasers, or the seller's investment in their credit-paper or securities. It chooses investment abroad by reason of the fact that the investment opportunity in the home market either is exhausted, or is not sufficiently attractive to compete with the high returns afforded by foreign investment. While the government, by engaging in large public enterprises, for example, railroads, shipping, and public-utility undertakings, can, through taxation and bond issues, always keep a certain amount of capital at home, capital naturally seeks its most attractive level; and if conditions in the foreign field are suitable, it will seek a foreign outlet. In economic crises a government can, of course, by law prevent, or subject to control by license, the export of capital, as Great Britain, under the stress of the world-war, is now doing. Restrictions on the export of gold are not uncommon.

Foreign investment is inherently identified with certain phenomena. For example, it is usually far more speculative than home investment; the investor's control of the investment is more difficult by reason of distance; its legal status and that of the physical enterprise in which it is

employed are under the control of foreign laws. In the case of the weaker and more undeveloped countries, large rewards by way of concessions are offered as inducements to investment, and the chance of great gain balances the risk assumed. Moreover, the insistent demand of the civilized peoples for a better or more economical satisfaction of their needs induces a continual quest throughout the earth for such basic materials as oil, iron, rubber, and foodstuffs. The major part of the earth's supply of these materials is to be found in the exploited countries. Their profitable working and marketing require so great an investment of capital, that they can be undertaken only by large corporations which control, by concession or otherwise, large areas of land, transportation systems, and a considerable supply of cheap labor.

Furthermore, the foreign investment is generally merely the first link in a chain of circumstances which bring benefit to the investing country. If the capital is invested in a public work abroad, such as an irrigation project or railroad, the bonds are floated through banks or bond houses at home, the machinery and supplies and engineers are furnished by the investing state, and indirectly other forms of export are stimulated. In the case of the exploitation of mines and the reservoirs of other raw materials, and their importation for the enhancement of home industry, the exchange balance is likely to be met by exports of manufactured goods. The investment of capital thus practically always involves certain consequential conditions, which enure as secondary benefits to the investing country.

Political Consequences. — These phenomena are attended by certain natural consequences. The desire of the investing instrumentalities, including banks, transportation agencies, promoters, and investing *entrepreneurs*, to reduce the speculative element to the minimum,

and the desire of the governments of the exploiting countries to stimulate national wealth and strength by the encouragement of foreign trade and investment, produce an implicit governmental partnership in the enterprise, by furnishing it with the official, or quasi-official, protection of diplomacy and ultimately of military force. This form of insurance, while often used with restraint in the more advanced of the exploited countries, is potentially and actually a factor of primary importance in the more backward countries, and is initially responsible in large degree for the title to most of the colonies, protectorates, spheres of influence, and vassal states which now exist. Indeed, the commercial control of the principal natural resources of a weak country leads easily to political control of the functions of government. It is only a short step from private investment in a railroad, or in a large concession for the exploitation of a country's important resources, to the exercise of influence in the government by the home state of the investor; and the sphere of influence easily merges into some form of political guardianship, whether protectorate, vassal state, or colony.

Such political guardianship or control is often initiated and stimulated by some breach of the obligation of the exploited state to the foreign concessionaire or investor, which is then remedied by some form of active interposition by his home government. Such breach of obligation, the culpability of which is determined, not by some independent judicial tribunal, but in last resort by the state whose citizen is alleged to have been injured, is followed by the display of force, "pacific" blockade, or some other measure of coercion which places the offending nation under duress to comply with the demands made upon it. If the breach of international obligation is deemed heinous or confiscatory, assumption of political power, direct or

indirect, by the foreign exploiting country may follow. In the more advanced of the exploited countries, such external tutelage is less evident. Foreigners are remitted to their local judicial remedies, and only in the event of a "denial of justice" in the international sense is foreign interposition exercised. But any attempt on the part of the local state, by contract, statute, or constitution, to bar or limit diplomatic interposition, is regarded as null and void. Ultimately, therefore, such interposition may generally be invoked under rules of international law which have been evolved in the special relations existing between exploiting and exploited countries and are not enforced among the strong nations themselves.

Another wedge by means of which foreign control of backward areas is often acquired lies in the fact that such areas are frequently the scene of political unrest and disturbance. It is well known that foreign investment cannot be attracted to, and will not thrive in, an atmosphere of political disorder. The self-imposed duty has therefore been assumed by certain exploiting states of pacifying and stabilizing their weaker neighbors or states within their sphere of influence. This trusteeship has been undertaken by the United States in various Caribbean countries, *e.g.*, Nicaragua, Honduras, Haiti, and Santo Domingo, and, in lesser degree, in other states of that region.

Attempted Monopoly or Control of Particular Areas.
—The result of these processes is that the exploiting countries seek to acquire exclusive control of as much of the earth's backward areas as they can, and in the more advanced of the exploited countries, as much opportunity for trade and investment as possible. The competition among the exploiting countries is great. Private initiative and governmental support coöperate to ensure as wide and stable a foreign market for exports as possible. National

shipping lines and banking credit are designed directly to assist this development. The result of the modern competition for export markets for money and commodities, and the effects of the war, are bringing about a tendency to revert to the system of colonial commercial restrictions which marked the eighteenth century, and which the United States, on the achievement of their independence, helped so greatly to destroy. With but few exceptions, there was hardly a foreign port in North or South America with which an American vessel could trade. Mercantilism, and the principle of "enumerated articles" immeasurably hampered the freedom of trade. By adopting a policy of reciprocity, the United States gradually forced the removal of many of these commercial restrictions, including those on navigation. The system of exclusion and discrimination in the West was thus finally overcome by the use of reciprocity and the tariff; and insistence upon the "open door" in the East has had a fair measure of success.

Export preferences during the latter half of the nineteenth century were worked out, not by exclusive legal monopolies, but by the subtler processes of spheres of influence, capital investments, the control of shipping and trade-routes, and similar measures. This is particularly the case in the more backward countries. In the more advanced countries, underselling and other legitimate forms of competition have greater opportunity to operate and naturally constitute an important factor of trade. The tendency, noticeable since the close of the war, to return to the system of colonial restrictions and preferences, seems certain, if pursued for any length of time, to lead to international friction.

Position of the United States. — As an exporter of investment capital the United States has but lately become a serious competitor in the world's markets. Like England,

but practically a century later, we have experienced the same economic evolution from the agricultural to the industrial stage, and thence from the mercantile to the financial stage. We emerged from the Spanish-American War a world power. With these larger responsibilities and our transition from the status of exporters solely of raw material to that of exporters of manufactured products have come the quest for world markets and the resulting competition with other manufacturing countries. Instead of having to engage in a struggle for distant artificial markets against seasoned nations who had already staked out their colonial and commercial claims, geographical accident has placed us in proximity to natural markets in the Western Hemisphere, in which our political, military, commercial, and financial interests combine to give us a predominating influence. This is in the Carribbean and the countries that border upon it. We are the principal investors in those countries, and our political and economic interests have led us to endeavor to restrict any considerable foreign control of the resources of that region. We have discouraged the preëmption of special interests by European concessionaires, and have obtained a considerable measure of recognition for our policy from European and from Central American governments. So great is our political interest in some of those countries, that we control by treaty or policy the amount of debt they may contract and the character of concessions they may grant to foreigners. Thus, prospective foreign concessionaires, before undertaking extensive negotiations with those countries, endeavor to obtain in advance the unofficial sanction of our State Department, in order to avoid any subsequent interference on the ground of potential infringement of our political prerogatives or interests, — or, in our character as trustees for our weaker

neighbors, — because the prospective concession takes unfair advantage of an exploited country. It will be recalled that our disapproval of the Pearson oil concession in Colombia induced these important British interests to withdraw from the field. On several occasions our State Department has refused its approval of plans for the refunding of the debt of Honduras, when combined with excessive demands for concessions for railroads, public lands, mines, and other privileges. This economic interpretation of the Monroe Doctrine is a natural corollary, in an industrial age, of its political evolution.

In other parts of the world other exploiting countries deem themselves likewise the natural guardians or exploiters of the regions under their influence. So, we find Japan claiming prerogatives as investors in and exploiters of the natural resources of China, and strengthening her claims by the negotiation with the Western Powers of such agreements as the Lansing-Ishii agreement, which constitute estoppels on those Powers by the recognition of Japan's preferential position. In the course of time, we may well be prepared for the enunciation by Japan of an Asiatic "Monroe Doctrine." If these restrictions become irksome to foreign countries, as they are bound to become when the growing capacity for overseas investment and trade finds itself thwarted, the barrier will become a challenge and the exclusion an offense, until, if arms are available, the inevitable clash will occur.

Attempted Control of "Key" Industries. — Aside from the competitive effort to acquire economic spheres of influence, attention should be called to another phase of economic imperialism, the direct effects of which, while less obvious, are not less potent in causing international uneasiness and friction. This consists in the attempt of strong countries to acquire control over as large a share as

possible of some basic raw material or industry. Germany recognized the value of such control in the chemical and other industries, and only the rigor of the Allied blockade prevented her full utilization of this economic weapon. It has recently been announced that the British Government is about to embark on an "oil policy" which consists in financially backing enterprises looking to the vesting of a considerable control of the oil-supply in British hands. This will be done by ensuring the development of all oil lands in British territory, or under British influence, by the government or by companies controlled by British capital; by purchasing the controlling interest in such foreign companies as the Royal Dutch, and by obtaining, if possible, concessions for oil-drilling in countries not under British influence. The minority stockholders in most foreign oil companies will probably not object to a majority control by British interests, for, as has been frankly avowed, they "feel that they would enjoy added safety for their investment if the financial and military power of the British Government were back of them." (New York "Times," March 29, 1919.)

Effect on World Peace. — To indulge the belief that such policies of economic imperialism, whether through the attempted control of whole areas, or of particular basic industries, have no effect upon the world's peace is, I believe, a fatuous delusion. Until the stronger powers evidence a sincere intention to begin gradual disarmament, — the acid test of their faith in the League of Nations, — such policies, indeed, constitute the greatest menace to peace. Into this competitive arena of overseas trade and investment, with all its incidents of method and technique, the United States is about to enter with renewed vigor. We have come out of the world-war with a favorable trade-balance for the war-period of some ten billions

of dollars, and an annual favorable trade-balance of three billions. From a debtor nation, we have become a creditor nation, and the possessor of the major part of the world's gold-supply. We shall finance our customers and obtain governmental aid in extending them credit; and as we are the only country now in a strong position to do this, much of the world's foreign trade will come to us. We shall be able to carry it largely in American ships, so that the freight money will henceforth not enrich foreign maritime countries. We are creating a new machinery of coöperation between government and private initiative, by legalizing combinations and other devices making for efficiency, in order to foster American trade and investment abroad and conquer foreign markets from their erstwhile preëmtors, who now, through the debilitating effects of the European war, are unable to meet the new competitor on an equal footing. While such replacement of sellers in the world's markets will not, of course, be universal, the movement will be of sufficient importance to constitute a serious factor in the international political firmament. It is out of the competition of national policies for the control of economic spheres of influence that the international relations of the immediate future will shape their new setting and alignments. It is upon the intelligent regulation of this competition that the peace of the future depends.

II. THE PROBLEM UNDER THE LEAGUE OF NATIONS

Unfair Competition: Point Three of the Fourteen Points. — Of all the Fourteen Points, the one whose effective execution would perhaps do most to dissipate or dilute the causes of war is Number Three, enjoining upon the nations "the removal so far as possible of all economic barriers, and the establishment of an equality of trade

conditions among all nations consenting to the peace and associating themselves for its maintenance." The distinguished author of this Point was doubtless well aware that the underlying causes of most of the wars of the nineteenth and twentieth centuries had arisen out of the contest for commercial advantage. The ramifications of such contests are many. They are manifested, not only in the predatory policies of annexing neighboring territories, appropriating colonies, assuming protectorates, or acquiring monopolistic concessions in undeveloped countries, by methods fair or foul, but in the more subtle measures of discriminating embargoes, tariff retaliation, violation of the "open door," unfair use of bounties, subsidies, and rebates, trademark and patent restrictions, coaling and navigation discriminations, attempted monopoly of trade-routes, and similar means of "unfair competition."

To these common sources of hostile relations, the proposed Covenant of the League of Nations has addressed two of its articles, both, it is feared, manifestly inadequate. The more obvious form of imperialism evidenced in the monopolistic control of backward areas is mentioned at length in Article XXII, to be discussed presently. The more subtle and equally fruitful causes of international strife, grouped above under the generic term "unfair competition," may have been intended to be covered by the clause in Article XXIII, providing that "the members of the league will make provision to secure and maintain freedom of communication and of transit, and equitable treatment for the commerce of all members of the league." Inasmuch as the general subject of these economic practices will be dealt with in another chapter of this volume, it is here deemed necessary only to say that, until an international conference agrees upon the elimination from international trade of the more provocative illegitimate

and unfair practices, and in this sense concludes a treaty embodying the general principles of domestic unfair-competition statutes, the social disease of war will not be cured or visibly prevented.

Article XXII of the Covenant: Backward Areas.—The operation of the Covenant upon the evils arising out of the monopolistic control of backward areas is embodied in the principle of “mandatories” found in Article XXII. The principle constitutes the “mandatory” — properly speaking, mandatary — a trustee for the League of Nations. Its application is limited to the “colonies” and “territories” which “have ceased to be under the sovereignty” of Germany and Turkey, “and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world.” The “well-being and development of such peoples form a sacred trust of civilization.” Their “tutelage” is “entrusted” to “advanced nations, who, by reason of their resources, their experience or their geographical position, can best undertake this responsibility” as “mandatories on behalf of the league.” It is expressly recognized that “the character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions, and other similar circumstances” — a difference which is taken into account in outlining briefly the conditions which should apply to the areas formerly under Turkish rule, where the tutelage is to be provisional until “they are able to stand alone”; to areas such as Central Africa, where the beneficent principles of the Berlin Conference of 1885 are directed to be carried out, including “equal opportunities for the trade and commerce of other members of the league,” that is, other than the mandatary; and to territories, such as Southwest Africa, which may be administered as “integral

portions" of the mandatory state. The mandatory must render to the League an annual report of its trusteeship.

This form of trust administration appears to show a recognition by the Allies that the old rule of dividing outright in fee the territories of a defeated foe is not in conformity with their avowed principles, and in the particular cases before them would probably lead to differences among the victors. It also furnishes us with one of the best conceivable tests of the sincerity and efficacy of a league of nations. The colonial administration thus provided is not a joint administration, such as has been known in Samoa and other places, and has practically always been unsuccessful, but the management of given territory by a single power, under the direction and supervision of the League.

Dangers. — Interesting as the experiment seems, and useful as it may become as a solution of the complicated problem of exploiting monopolies by the great Powers in vassal states and protectorates, it will begin its precarious career under certain disadvantages, namely, the experience of history and the temptations confronting the mandatory state. We have in the past heard the powers speak of their functions as "trustees" of the backward races, and we know the extent to which the "trustee," in violation of all legal principles, has exploited its trust and appropriated all the profits. We know that Bosnia and Herzegovina were once administered by Austria as "mandatory," as was Egypt by Great Britain, and we know that such form of administration was merely the first step leading to ultimate annexation. We know that the secret treaties assigned various portions of the territories conquered in this war to different powers, and that in the early days of the peace negotiations they vigorously asserted their claims. Should these powers be made the mandatories of the

territories they were to receive under the secret treaties, we may suspect the purity of the "sacred trust," and wish particular assurance that trusteeship shall not merge into ownership.

Again, inasmuch as no provision has been made for the trustee's compensation, we must be on guard against its yielding to the temptation of discriminating in commercial matters in favor of its own nationals. Any such attempt would fatally compromise the plan. More particularly, the natural resources of the territory under mandatory administration should not be placed at the disposal of concessionaires of the trustee state, or of that state itself. Such grants of concessions, or governmental exploitation, would constitute merely disguised economic annexations of the territories, would defeat the altruistic purposes of the new scheme of administration, and would effect a complete reversion to the evils of monopolistic control of backward areas which now endanger the world's peaceful development. The evils of such concessions would not be tempered by the grant of general freedom of commerce and trade, for the monopolistic concessionaires would doubtless control and direct the bulk of all the really important trade. In addition, the abuse of native labor is a constant temptation and danger.

These are some of the more obvious pitfalls in the path of the disinterested trustee, against which the League must guard. The public will watch the new experiment with some misgiving, and the passing of time will not lull its watchfulness into a false sense of security. Should it, prove successful, it may afford in part a possible solution of the still unsolved problem of the disposal and utilization of the vast resources of the backward areas of the world, which, as we have already seen, are the subject of attempted monopoly and of intense competitive struggle

for control which sooner or later develops into armed conflict.

Possible Solution of the Problem.—The solution of the problem is not easy. Yet until a solution is found for the existing predatory exploitation, in the interests of particular nations or syndicates, of the resources of backward areas, we are not likely to make much progress toward disarmament or the dissipation of the danger of war. The often suggested solution of "internationalization" finds its difficulties in practical application. Yet the task can, I believe, be performed. Commercial statistics are sufficiently accurate to enable international industrial commissions appointed by the Powers to allocate the raw materials of the world to the manufacturing countries in proportion to their capacity to utilize them. Extortionate prices could be guarded against by some form of price-control. It will be recalled that the International Sugar Convention was inaugurated to prevent the grant of sugar bounties on the part of individual states, by causing an automatic tariff wall to be created against sugar produced under bounty. Commissions for the control of raw materials entering into general world consumption would not be impossible to create. The most difficult problem would be to exercise control over the investing or exploiting syndicate. One method might be the internationalization of its stock-ownership, by compelling companies exploiting the natural resources of backward areas to limit the holdings of the citizens of one nation to a certain percentage, and to distribute such stock among the citizens of various nations. National diplomatic or military support for such syndicates might thus be replaced by the international support of the League. Should governments themselves undertake the exploitation of backward areas, some form of international control of the raw materials obtained

must likewise be devised; for the mere aggrandizement of the home industries of the exploiting powers perpetuates the constant menace of war under which the world now labors.

The indefiniteness of the suggestions here offered is an admission of the difficulty of the problem, but not of the hopelessness of a practicable solution. Possibly the era of international coöperation toward which the proposed Covenant endeavors to make a slight advance is still too far distant to present any hope of early realization of the international control of the resources of backward areas; but until that day, no agreements for the pacific settlement of international disputes will avert those economic crises which now lead to war.

CHAPTER XII

INTERNATIONAL CONTROL OF INTERNATIONAL WATERWAYS, RAILWAYS, AND HIGHWAYS

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International Significance. — The instrumentalities of international commerce other than the world-sea — principally rivers, railroads, and harbors — are an important factor in international relations, inasmuch as they serve as a means of transit for the passage of goods from one country to buyers in another, subject to the power of intermediate states to tax or wholly to stop them. The interest of the League of Nations in assuring their freedom is, therefore, evident.

For example, the new Czecho-Slovak state is an active manufacturing and farming community in the centre of Europe, dependent in large part upon countries over the sea for its raw materials and for the markets in which it sells its surplus products. To reach the sea, its surplus goods must pass to the north through Germany, by the river Elbe, navigable from Bohemian points to the North Sea, or by railway; or to the south, either through states created from former Austria-Hungary to Trieste or Fiume, or, by a third route, down the Danube River, to cities in the Balkans. The mere passage by rail or by river, however, will avail little to Czecho-Slovakia, since in the ports of Hamburg, Trieste, and Fiume her products will be subject to the control of Germany or of the state which holds the Adriatic cities, during the transfer to and from sea-going ships and real entry into world-trade.

Access to the sea is not the only point in which international transportation interests the League of Nations. The German and Austrian union before the war, and Germany to a less degree after the war, is interposed between Russia and western Europe. France and Belgium are interested, not only in sea-transport, but also in land-transport to the East; and a determined opposition, direct or indirect, on the part of the intermediate power, to the use of her railways by France or Belgium, would greatly interfere with the distribution in Russia of French or Belgian products, especially the smaller and more expensive articles. Switzerland is almost wholly dependent on foreign railways for her export and import trade; the new Czecho-Slovakia can be cut off from her eastern market by a hostile policy in Poland and the Ukraine.

I. WATERWAYS

Development of Freedom of Navigation.—Under the sway of Rome, the whole world was bound together by a network of roads and waterways upon which travel was free. A port was public property, *res publica*, whose use could not be refused to any citizen or ally of the Empire; and commerce was favored by the liberal policy of the Roman law as well as by the absence of local trade-barriers, resulting from the unity of the Mediterranean world in a single state. With the bankruptcy of the central authority in mediæval times, local barons and princes, who were interested in ways of communication and commerce as a means of filling their own pockets rather than of advancing the interest of the community, regularly laid a ransom on the unfortunate merchants engaged in the international distribution of goods, when they did not simplify matters by taking the whole contents of their boats

or wagons. Merchants, boatmen, and wagoners, forced to band together for their own protection, proved no less selfish, and in turn threw obstacles in the way of foreigners, that is, men not belonging to their own particular city or district. In the face of these restrictions it is extraordinary evidence of the vitality of the commercial spirit that it existed, and even developed, during those lawless days.

As the European state system evolved from the confused legal and political conditions of the Middle Ages, and as the cities grew in population and in wealth, a more orderly arrangement of trade-relations became possible. Treaties and agreements did something to open and regulate rivers, gave merchants privileges in foreign countries free from the risk of onerous taxes, or even of confiscation, which had made their business existence precarious, and regularized the ever-increasing current of trade flowing through Europe and around the world to Asia and America.

Until the French Revolution, however, no success attended attempts to free the rivers from burdensome passage-tolls and from the monopolies of transportation enjoyed by the boatmen of certain cities on certain rivers; and even that great outburst of the modern spirit did not wholly abolish these interferences with the freedom of commerce. By the Treaty of Vienna, in 1815, the powers proclaimed that commerce on international rivers should be free to all riparian states. Since then, either by treaty or by act of the interested governments, all European and North American international rivers, that is, rivers which traverse or bound several states, have been opened to the boats of all riparian nations, and in some cases to all flags. South American rivers are equally open, either by treaty or by declaration of the local governments. African rivers, by the Treaty of Berlin of 1885, by which the middle of the Dark Continent was parceled out, were made free for all

flags, so far as they ran through the territory affected. Subsequently the rights of riparians to navigate other international streams in that continent were also recognized. In Asia, there are few international rivers, and these not important; but Chinese rivers have been opened to the ships of all nations, by agreement with the Chinese Government, or by its own action.

International Law. — Little aid comes from international law as a body of rules to assure freedom upon, or international control of, rivers. Grotius and his immediate successors asserted the rights of all mankind to use highways and waterways for innocent passage, if they did so without damaging the state through which they were passing. They based this right upon the law of nature, the common right of all mankind to use the gifts of nature where it could be done without injury to anyone; but their theories had no practical application. The right of free passage, where it exists, is claimed by virtue of the treaties to which the state through which the road or river runs is a party. The evident necessity of allowing to up-river states free passage up and down their natural roads to the world-sea, a general recognition of the justice of their claim to do so, increasing appreciation of the general interest in unrestricted trade, the common practice of states to negotiate treaties providing for free passage — these considerations have led eminent jurists to assert that there is an inchoate or incomplete right in upper riparians to use the river. The only practical value of such a right, however, is that international public opinion would support the claim that it be consecrated in a treaty affecting any particular stream. Nor has the principle of local sovereignty ever been limited to allow free passage by road or by railway, or the free use of ports. Except as provided by treaty,

any state may levy taxes, or may even prohibit passage of all or any class of foreign goods.

Distinction between Commerce and Navigation. — In considering international interest in international rivers, and the organization which would best secure it, a distinction must be made between commerce and navigation. Commerce means the moving of goods in boats; navigation the movement of boats themselves. That commerce be free upon a particular waterway does not require that the waterway be opened to the boats of all flags: it does require that there be no toll for fiscal purposes laid upon the goods in transit; that they be not subjected to customs examination or the payment of tariff charges each time they cross a boundary; and that the goods of all nations be given equal opportunity to use the means of transportation provided.

Freedom of navigation means that boats of any state enjoying the right may navigate the river, and, as a necessary consequence, use port facilities to take on or discharge cargo. The right of free navigation has a different character if it refers to navigation by seagoing ships to river-ports, or to navigation by river-boats from those ports upwards. So far as international rivers are deep enough for seagoing ships to pass, they should be treated as arms of the sea, and be subject to the same rules as coastal waters: that is, open to all flags, and subject to limited police-control of the territorial sovereign. Above this point a different rule may fairly be applied. In fact, freedom of commerce, as well as of navigation, on these waterways is chiefly an interest of the riparian states. Except for the small amount of traffic which is not intended for any of them, and which is unimportant in practice, there is no other object in sending goods up a river than to sell them to the inhabitants of the riparian states, and no goods come

down the river other than those originating in such states. If, therefore, the riparians do not want non-riparian boats and barges on the river, and are willing to run the risk of having to pay more for goods because of the higher freights resulting from less competition, there is no good reason why they should not have their will. In fact, it may be inconvenient on grounds of taxation and police-control to have river boats of non-riparian states running up the Rhine from Cologne to Strassburg, up the Danube from Belgrade to Vienna, or plying on the St. Lawrence and the Great Lakes. The foreign interference resulting might hamper the regulation of river-traffic by the riparians. If any riparian wants foreign capital invested in its navigation enterprises, it can easily grant concessions to foreign companies; the boats will then be under its flag and its police-control, and it will be responsible for them to the other members of the river community. In practice there has been little fluvial navigation by non-riparians, except in a few special cases, particularly the lower Danube, where an Austrian monopoly could be prevented, and Roumanian wheat moved at reasonable rates to meet sea-going ships, only by free admission of foreign boats.

Another special interest of the riparian states arises from the fact that channel improvements must be undertaken on their lands, and that the results of works on the river in one state may be to throw the current over on the banks of another. Of late years the development of electricity from water-power has added to the centuries-old question of the limitation of constructions for manufacturing purposes on streams where there is a great deal of navigation.

Need for International Action on Rivers. — Evidently there is reason enough for international action and for continuing international action on an international river.

A common rule of the road is needed, so that boats will not turn to the left on one half of a boundary, to the right on the other; common navigation regulations and common rules for the examination of pilots and captains are essential; and some legislative organ will be needed to make the changes which experience has proved necessary in the detailed regulations which must be included in a river treaty. A joint or common engineering authority should pass upon applications for permits to build dams, so that the latter will not unduly encroach upon or affect navigation or rights of other riparians. A common or joint system of river-improvement will evidently bring better results at less cost than will the individual efforts of each riparian government. It is an axiom of international practice to-day that tolls should be permitted only in order to raise money to improve the channel. Hence, if tolls are to be charged, they must be fixed in common; otherwise, one state could do great injury to its neighbors and favor its own trade by levying a high rate on goods which were the product of another riparian state, or which were imported chiefly by that state, or on a kind of boat most frequently used by a particular country. Especially could the lowest state on the river, by such discrimination, give ground for quarrels which might have the most serious consequences. Port-regulations and charges must also be so fixed that equality will be assured to all boats and goods using them.

Authority to arbitrate, or to decide judicially, disputes arising out of the river-agreement must be provided; and, as the questions submitted will generally involve a technical knowledge of local engineering problems, or of local conditions, this authority should be composed of men who have the requisite knowledge to cope with such problems.

The problems which are to be met by the river-authority

indicate its composition, and present practice confirms the indication. The riparian governments are directly concerned with all the points that are to come up for submission; their local knowledge especially qualifies them to make decisions; and their interest will keep them active in seeking solutions. As a general rule, it would be advisable to continue the machinery which has in the past dealt with international interests in navigable rivers, such as river-committees composed of representatives of the riparian nations; special river-courts of the riparian states, to administer regulations so far as private individuals are concerned, with close correspondence between them, and perhaps an appeal to the commission; and a joint engineering board to pass on improvements, limited in the case of some rivers to an actual inspection trip of engineers, representing the states. The general arbitration treaty should give the right of appeal where freedom of transit, or national rights, are infringed by a decision of the commission.

In one instance, however, on the Danube, there is in existence a commission composed chiefly of representatives of the great powers of Europe, which was created because it was impossible to establish a riparian commission which could be expected to succeed. Until it can be shown that the riparians can manage their own affairs, the European commission should be maintained, with certain modifications in its membership which the war has made necessary; and, wherever a similar inability on the part of riparian states is evident, a similar organization, composed of those of the great powers most interested in trade on the river, should take the place of the riparian commission. Needless to say, where the riparian states or the general interest can do without a commission, no such organ should be instituted. If the states can settle all

ordinary fluvial difficulties by diplomatic means, with the usual appeal to the international judicial authority, so much the better; in international, as in national, governments, multiplicity of commissions is to be avoided.

II. RAILWAYS

International Railway Transportation. — Grotius made no distinction between waterways and landways. The same right of innocent passage existed over both. The greater importance of water-transport up to the epoch of the railroad led to the neglect of landways in the discussion of the subject in the treaties which organized the freedom of commerce in Europe after the French Revolution; but in some cases, for example, the Simplon for Switzerland and Genoa, and the road through Holland to Germany for Belgium, the right of toll-free passage was secured for foreigners. Since the increase in the exchange of goods by land resulting from railways, land-transport has again been coming to the front as an international question. Gradually there developed in Europe the realization that a more general regulation of international transport was necessary, so that a shipper of goods from France, through Switzerland, to Germany would know in advance what were his rights and liabilities, and would not be obliged, in case of injury to his goods, to go to Switzerland or Germany and argue his case with foreign lawyers before a foreign court. It was also important that he should know the rate he must pay and the conditions of transport; for the regulations of one of the intervening roads might prohibit the carriage of certain goods unless they were packed in a particular way, or might prohibit their transport altogether.

In 1890 a treaty was signed by most of the states on the

Continent of Europe, establishing and regulating the duty of transport of freight in international commerce, fixing the court in which the shipper could sue for damages done anywhere upon the road and the responsibility of railways among themselves. Rates must be published, and rebates were forbidden. An office was created at Berne, to act as a bureau of information, and as an arbitration tribunal between the railroads at their request, and to aid in the collection of debts due from one road to another. A legislative organization of experts was created at a conference of representatives of signatory governments, which has met at intervals to discuss amendments to the treaty, thus assuring treatment by competent and interested persons of these important and highly technical questions.

International Interest in Railways. — The international interest in railways thus forming a part of the trade-routes between states is different from those on rivers. No international questions of engineering arise; the effect upon the territory of another state of work done on one part of the line does not have to be taken into consideration; no common regulation of traffic is necessary, or common examination of conductors and trainmen. The difficulties which arise from the fact that the river is an open way, down which run boats of all the states, do not have to be taken into consideration. The problem is to secure equal and reasonable rates and service for all persons who desire to use the roads in international traffic. Equal dispatch on roads and equality in handling of goods at stations should be assured. A shipper must be able to find out easily in advance the rates and conditions of shipment: how certain goods must be packed, and the length of time which they will regularly take on the road. It is important, also, that individuals who suffer a loss should be able to collect quickly their claims for loss and delay in

transit, and that accounts between railroads should be easily and fairly adjusted.

How to secure equality of treatment and fair rates on individual railroads is one of the most difficult questions with which the League of Nations can be faced. Realizing the troubles which our interstate and state commerce commissions have had with a similar problem in this country alone, and recognizing how much more complicated it would be in international affairs, an international commerce commission regulating traffic on all the great international routes is an impracticable ideal.

Railways in the Peace Treaty. — The general treaty of peace should proclaim freedom in international transportation for the nationals of all states members of the League, thus extending the general statement of the Congress of Vienna, that commerce on all international rivers should be free.

Taking the treaty of 1890 as a basis, a special convention should cover the Continent of Europe, including the railways in Asia Minor and Siberia, and probably in Asia and in Africa, as soon as through connections shall be made. The convention must be the work of European railway experts, and meetings of similar experts should continue the duty of suggesting changes in future years. The central office should be made an arbitration tribunal for the settlement of differences between railroad systems, which in Europe are generally government-owned; and at the request of any government, it should pronounce upon the meaning of any term in the convention, and should decide whether a specific internal rate or regulation in any country contravenes the terms of the treaty. Thus, by trained men, permanently engaged and dealing with the actual cases, there would be built up gradually a body of law upon which in the future an international commis-

MAP SHOWING

1. INTERNATIONAL RIVERS ———
2. RAILWAYS OF INTERNATIONAL INTEREST ———
3. PORTS OF INTERNATIONAL INTEREST ●





sion with more extensive powers might be based. An appeal to the international judicial court should be allowed, from decisions of the tribunal which involve important interests; though, as a matter of fact, it is improbable that the decisions of a court of special experts will be reversed by the judicial court.

Should the development of the Pan-American railway render it necessary, a similar organization could be created for the American hemisphere; but again it should be emphasized that unnecessary international organizations add a heavy weight to the burden of the League of Nations, and no international organization should be created unless the need for its existence can be clearly shown.

Access to the Sea by Railway. — There is a very important special interest involved in certain cases of international transport. Interior states must be assured of fair terms in transporting goods to seaports, and this fair treatment may mean much more than freedom of transit. They must have special train-service to connect with the arrival and departure of steamers, and must be assured of port conveniences at the port upon which they depend for raw materials, or for a market for their manufactures and their agriculture. Where the distance from the boundary of a state to a port is short, as will be the case from Hungary to Trieste, the best solution might be a railway belonging to the interior state, and to be operated by that state or by a corporation composed of its citizens. Such a road would be a continuation of the railroads of the interior state, subject to its regulation as to tariffs and traffic-arrangements, except for the police regulations of the local state. This right would, of course, include the right to terminals at the port, alongside deep water, and to the necessary space for repair-shops and other constructions.

In other cases, as, for instance, the case of access from

Czecho-Slovakia to the port of Hamburg on the north and Trieste on the south, the distance is so great that the cost of railways would be a heavy charge to the new state, if it were limited solely to transport of through goods, which, furthermore, can be handled on existing lines. A Polish railway to Danzig, and an Austrian railway to Trieste, would not present the great legal difficulties which would attend the maintenance and operation of a railway built by the Czecho-Slovaks across Germany to Hamburg, or across Austria to Trieste. To meet peculiar conditions, the question must be solved by a treaty between the states involved in any given case, carefully regulating all the necessary transfers, rates, customs-arrangements, and other conditions of traffic, together with an agreement providing a freight station at the port to be reached. Modifications in the treaty could be made from time to time by agreement of the states; or, if a change be demanded by one state on the ground that it is necessary to secure freedom of transit, an appeal could be made to arbitration. The agreements could be submitted for approval to the Paris Conference, or to the congress which is likely to succeed it; and if no agreement be possible, the Conference could make the treaty.

War and Railways. — In case of war, countries signing the general peace could agree to interfere with neutral commerce as little as possible on roads specified as serving as outlets to the sea. Recent experience demonstrates clearly that, in a world-war, no such arrangement will be allowed to interfere with the success of military operations; but in the minor conflicts which may arise, a protest by the single neutral state interested will be far more effective if that state can point to a specific covenant. In the course of this war, Cette, a French Mediterranean harbor, was made the port of Switzerland, and by special arrangements

goods bound in and out of Switzerland were transported over belligerent railways. The new character of continental blockades requires special agreements to cover neutral sea-borne traffic, and they must include protection for the same traffic on land.

Competition. — Many of the dangers which might arise in regard to international transit are in fact conjured away by the magic of competition. Railway administrations are usually bidding for business, not hindering it; and even where a nation owns its railways, as is common in Europe, the chief danger is that rival administrations will compete for business by offering low rates on particular lines. Self-interest will play a large part in opening international routes. One of the best guaranties that Bohemian glass and sugar will be welcomed over German railways, down the Elbe to the port of Hamburg, is the fact that this glass and sugar will help pay railway costs, will employ German boatmen, will fill warehouses and give work to laborers in Hamburg, and will make cargoes for German steamers; in a word, it will be to the interest of Hamburg and of Germany in the future, as it has been in the past, to encourage the use of the port and of its transport accommodations.

III. SEAPORTS IN INTERNATIONAL COMMERCE

Importance of the Port. — The port is in many ways the real crux of the situation. By far the greater part of international trade will be sea-borne, because of lower rates and greater convenience; so that the railway and internal waterway problem is most important as it is connected with an outlet to a great port, whence goods are shipped abroad or transferred to interior points. Commerce tends to centralize in a few harbors. Ships can carry cargoes

cheaper to Hamburg or Antwerp, because they are sure of finding in these ports equipment by which they can promptly discharge, and because a return cargo will be ready for them, and any necessary repairs can be quickly made. Time is money, and every day a ship spends at a dock, or sailing the seas in quest of cargo, means not alone a loss of profits, but a heavy expense of operation.

Again, to a shipper it is important that he know in advance that a ship will sail on an appointed day to the port he desires to reach; and that means many regular lines of steamers, which can be established only if a large business is at hand. The equipment of a port to handle business quickly involves enormous cost: the harbor must be dredged, quays constructed, cranes and other machinery installed, tugs and lighters provided, warehouses and railway terminals built; and only by constant use can the expense be justified. But greater still is the cost of the railways, canals, and improved rivers, which attract all the business possible to the port and to the steamship lines, which in their turn must supply freight and passengers for waterways and landways.

The legal impediments to the use of a national port by foreigners are customs duties and discriminating port-dues. Even if customs duties are not heavy, the annoyance and loss of time incident to a rigorous customs inspection would be sufficient to drive transit goods away from a particular port, or seriously to impede internal traffic. To obviate this danger to local interests, and not in the interest of the world, the important institution of free ports has grown up in countries with through traffic, and has recently spread widely over Europe. A free port is part of a larger port area, treated as if it were not part of the national territory for customs purposes. Coffee, for example, may be landed in the port, warehoused,

cleaned, mixed, and reshipped, without any supervision of customs officers. In some free ports even manufacturing can be carried on, so that foreign tobacco, for example, may be imported and combined with domestic leaf, or made up into cigars and cigarettes for shipment abroad free of internal revenue. The free port does much more than put the foreigner on the same basis as a citizen in respect to customs. It abolishes customs for all transit traffic.

Access to Ports by Landlocked States. — Except for the exemption from customs, however, the free port remains a national port, open only to ships entitled to enter national ports, either by law or by treaty. It is not free to all the world. Goods in it are free from revenue officers, but the international interest in certain ports goes beyond this point. Free access to the sea for landlocked states means free access to sea-going ships, and this implies a port both free from local customs law and open without restriction to goods and persons bound to or from an internal state. As in the case of maritime navigation in rivers, this implies free entry for ships of all flags trading with the internal state. Freedom of commerce, in this case, means freedom of navigation; a free use of Salonica, for instance, would profit Serbia but little if the harbor were closed to other than Greek ships. The new Czecho-Slovak state may, in order to develop new markets, desire, by subvention to steamship lines, to assure space for its freight at regular intervals, and perhaps at low rates. There are many difficulties connected with the establishment of merchant fleets by interior states, especially the difficulty of control through warships by a state which has no ports in which to care for her fleet; so that, unless they can make agreements with steamship companies of any foreign country and assure them harbor accommodations, these states

will not be on an equality with seafaring states in the mercantile competition of the future.

International Interest in Ports. — The international interest in ports is to secure the right of interior states in outlets to the sea. Evidently the variety of questions which may arise in individual cases is so great, that a general treaty would be impracticable, except that the principle of the free use of certain ports by certain states should be established. Trieste for former Austria-Hungary; Salonica for the Balkans; Riga for the Ukraine; one of the Asia Minor ports for Armenia and Mesopotamia; Braila for Danube wheat; Fiume for Hungary if it becomes Jugo-Slavic, for both Hungary and Jugo-Slavia, if Italy holds the city; Danzig for Poland, if the principle of nationality keeps the city in German hands — these are among the outlets which should be assured. Suggestions that these towns be made free cities are not practical. The existence of a number of small defenseless free towns, each eagerly coveted by several neighboring states, with difficulties arising from clashes between national elements in the population resulting in international disputes, is a serious menace to world-peace; and this, with the difficulties in the execution of civil and criminal law, the open door to smuggling, makes this apparently simple solution of the question in fact the most dangerous. Negotiations between the governments interested in the port and in having access to it would be the best way to settle the details of a treaty. Once agreed upon, the treaties could, at the request of either party, be submitted for approval to the Peace Conference or the congress succeeding it. Such treaties would be far beyond mere port arrangements; the terms on which railway, canal, or river freight would be carried could be settled, so that appeals for the breach of stipulations could in most cases be carried, for

arbitration by technical experts, before the railway tribunal already mentioned, and then only taken to an arbitral court.

IV. INTERNATIONAL MAIL AND TELEGRAPH SERVICE

To international commerce the transport of messages and letters is of nearly equal importance with the transport of goods, and the freedom of this service has been assured for many years without any international administrative organ. A general treaty signed by most of the states in the world regulates the post, another the telegraph.

A special conference of experts in the case of each service meets periodically to consider changes in the detailed conventions, for submission to the various governments. The other organ of administration found necessary has been a central bureau, to gather information and act as a sort of intermediary between the states. No arbitration court has been needed, no international commission to enforce the treaties. This important international arrangement has operated with the minimum of friction and the maximum of result. It is a striking proof of the way in which international services could be assured without interfering with the conduct by each government of its own affairs, and with the successful operation of an international function by agreement of governments.

V. CONCLUSION

The future is best assured by building on the past: the international institutions which have proved their worth should be continued, so far as they do not conflict with the new alignment in the world; questions should be left to be settled as far as possible by those most interested. Disputes between states in matters of transit, which cannot

be settled by diplomacy, should, where they concern technical matters, be arbitrated before a technical board. An international administrative authority, interfering with local officials, with local laws and courts, should be condemned as more likely to cause than to prevent conflict. No great state will long tolerate it. Imagine an international port commission in New York or San Francisco, or an international railway commission regulating the rates and conditions for the shipment of Japanese or Australian goods across the continent. If they are established in the smaller states, the result will be constant intriguing to be rid of them. In organizing the world to be, statesmen will do well to remember that on the other side of the channel from the rocks of exclusive state sovereignty, lies the whirlpool of intrigue involved in international administration, with the governments moving their puppet representatives in accordance with understandings which will culminate in tacit alliances. Only by steering the safe middle course of arbitration can both dangers to our civilization be avoided.

CHAPTER XIII

LABOR IN THE PEACE TREATY

BY JOHN B. ANDREWS

Secretary of the American Association for Labor Legislation

Necessity for Uniform Labor Legislation. — The economic justifications for protective labor regulation no longer require extended discussion. For national health, industrial efficiency, good citizenship, cohesion, and safety, it is imperative that adverse industrial conditions be not allowed to undermine the physique, the minds, or the loyalty of the workers. It has furthermore long been recognized that, in the regulation of labor conditions, the method of legal enactment and the method of collective bargaining supplement each other. Without strong trade-unions the labor law is in danger of being ignored or evaded; without definite legislative enactment it has been difficult for even a strong trade-union to bring all employers in an industry up to a given minimum standard.

Although the economic problems involved are sometimes complex, the necessity and the advantages of the legal method of imposing minimum labor standards are now admitted. And no activity with respect to labor legislation has met with greater acclaim than efforts to insure uniformity in its application

The wide appeal of uniform labor laws is doubtless based in large part upon the fact that such uniform minimum standards benefit humane employers as well as wage-learners. Many individual employers, in the absence of legislation, have hesitated to self-impose a considerable initial expense for needed safeguards, fearing the effects of

the advantage in production cost thus given their less humane competitors. We are also acquainted with representatives of commercial interests who appear at state capitols when labor bills are pending, to say that they would be put out of business if their state alone should enact such a law. Often they add that they recognize the need and would welcome the regulation if applied uniformly by means of national legislation. But with the recent growth of efforts to secure federal laws for the protection of labor, we have encountered a somewhat similar argument at the national Capitol, and are told that, laudable as the particular purpose may be, nevertheless, it is quite impossible of fulfillment because of lower labor standards in European countries.¹ This consideration is probably what the Italian economist Loria had in mind when, in "The Economic Causes of War," he wrote: "The creation and progressive expansion of the world markets urgently demands the internationalization of the laws regarding labor, in order that the competition of those countries where there are no restrictions shall not ruin those where it is protected."

Those business men who have been giving special attention to the possibilities of sharp commercial competition after the war, and have considered dangers of underselling and dumping of foreign products made by cheap labor, will, of course, not overlook the rare opportunity for regulation offered through international treaties. Particular nations should not be permitted to demoralize the markets of other countries that are striving to uphold decent business standards.

¹ An example of this type of reasoning appears in the declaration of the Pennsylvania Manufacturers' Association, quoted in the *Philadelphia Ledger* of December 11, 1918, that "If we find we must compete with foreign production, then our cost of production, largely labor, must be reduced to the foreign level."

It is well, however, not to forget that one of the important factors in production is labor. Labor is entitled to at least equal consideration with credits and raw materials in any plan for industrial and international peace. If, under the circumstances which developed in the world-war, an apparent effort is made to belittle or even to postpone the just claims of labor, now more strongly organized economically, and to a rapidly increasing degree politically, throughout the western world, there will be serious unrest.

Labor at the Peace Conference. — Recognition of these facts seems to have been a potent factor in stimulating activity at the Peace Conference. Article XXIII of the Covenant of the League of Nations provides that, —

“The high contracting parties will endeavor to secure and maintain fair and humane conditions of labor for men, women, and children both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations.”

This provision marks the first definite step toward the international coöperation for the betterment of industrial conditions for which forward-looking persons in all countries hoped as one of the dearly bought fruits of the war which laid low more than seven millions of the world's finest manhood. In line with the policy there laid down, an ‘international labor charter’ was incorporated in a subsequent section of the peace treaty. This charter provides for a permanent International Labor Office for the study of labor problems, and also for an International Labor Conference for the formulation of policies and standards, meetings of which shall be held at least yearly. The permanent office is to be part of the League of Nations organization, and is to be supervised by a governing body of twenty-four members, — twelve representing the

governments, six the employers, and six the workers,—this body to choose a director, whose staff is to include women. Agreements entered into by the conferences are binding only on the countries ratifying them; and methods of securing compliance, including reference of complaints to the permanent Court of Justice of the League, are provided for. A number of progressive standards of labor-protection are recommended.

Labor Movements during the War.—The first meeting of the new international labor conference was called to be held in Washington, to take up for consideration such questions as the eight-hour day, prohibition of night-work for women, and prohibition of child-labor in unhealthful occupations. That this opening session of a body whose decisions will prove momentous for the wage-earners of all countries should take place in our national capital is peculiarly fitting, for it was in America that the first concrete proposals were made for a world-wide drive for labor betterments as a result of the war. Within four months after the outbreak of the conflict in Europe,—nearly two and one half years before America herself decided on participation,—the American labor movement proposed an international labor conference, to meet at the same time and place as the general peace congress of diplomats. In emphasizing the importance of such a conference and in explaining its purpose, the initiators of the proposal said that it was to the end that such suggestions might be made and such action taken as would be helpful in “protecting the interests of the toilers and thereby assisting in laying foundations for more lasting peace.”

The trade-unionists of Europe were just then too fully occupied with immediate military exertions to give attention to after-the-war programmes, but two years later they formulated definite plans. On the first of May,

1916, there met in Paris a preliminary labor conference of delegates representing the trade-union federations of Great Britain, Italy, Belgium, and France. The French representatives were there requested to draw up a series of minimum standards of labor protection, and these were modified and adopted two months later by the trade-union representatives of the same Allied countries at a conference at Leeds, England. It was proposed, not only that the resolutions presented by the French representatives and adopted at Leeds should serve as the programme of the international labor congress, to meet at the same time and place as the general peace congress of diplomats, but that the minimum standards agreed upon should be actually incorporated into the final peace treaties which should end the war.

More than a year later, on October 1, 1917, trade-union representatives of ten other European countries, including Bulgaria, Denmark, Germany, Holland, Norway, Austria, Sweden, Switzerland, and Hungary (also delegates from unaffiliated Czecho-Slovak trade-unions), held a conference in Berne, Switzerland, to discuss their peace demands. Complete unity of purpose between these neutrals and belligerents of Central Europe resulted in the unanimous adoption of a programme "the essentials of which are embodied in the peace programme of the Leeds conference" of representatives from the Allied countries. In stressing the labor demands it was said: "Only socio-political measures on a large scale can help in overcoming the consequences of the war. In order to facilitate such measures, certain maximum demands must be established by international action, and action of this kind must be taken in the peace treaty."

A supplemental resolution appealed to labor in all countries to work with all means at its disposal for the

recognition and realization of these demands, which were to be submitted to their governments "to support at the peace negotiations." In some countries, at least, the efforts of the trade-unionists were strongly reinforced by social-science organizations.

Here we find, then, more than a year before the signing of the armistice, a carefully prepared programme, with agreement upon essential points, between the fourteen principal national labor movements of Europe and the United States.

Largely as a result of this agreement, the following nine principles were accepted by the nations drafting the peace treaty, who engage to take all steps necessary to secure their realization:—

(1) In right and in fact the labor of a human being should not be treated as merchandise or an article of commerce.

(2) Employers and workers should be allowed the right of association for all lawful purposes.

(3) No child should be permitted to be employed in industry or commerce before the age of fourteen years. In order that every child may be insured reasonable opportunities for mental and physical education between the years of fourteen and eighteen, young persons of either sex may only be employed on work which is not harmful to their physical development and on condition that the continuation of their technical or general education is ensured.

(4) Every worker has a right to a wage adequate to maintain a reasonable standard of life, having regard to the civilization of his time and country.

(5) Equal pay should be given to women and to men for work of equal value in quantity and quality.

(6) A weekly rest, including Sunday or its equivalent, for all workers.

(7) Limitation of the hours of labor in industry on the basis of eight hours a day, or forty-eight hours a week, subject to an exception for countries in which climatic conditions, the imperfect development of industrial organization, or other special

circumstances render the industrial efficiency of the workers substantially different. The International Labor Conference will recommend a basis approximately equivalent to the above for adoption in such countries.

(8) In all matters concerning their status as workers and social insurance,¹ foreign workmen lawfully admitted to any country, and their families, should be ensured the same treatment as the nationals of that country.

(9) All states should institute a system of inspection, in which women should take part in order to ensure the enforcement of the laws and regulations for the protection of the workers.

America's Contribution to the Programme.—This, to an American familiar with the progress, as well as the principles, of labor legislation, is not a radical programme. To more than one of the prospective "high contracting parties" these standards must appear modest indeed. Practically all of these principles have already been approved in the United States by the Congress itself or by one or another of the administrative departments of the Federal Government.

That "labor is not a commodity" is embodied in our Clayton act. The right of workers and employers to organize for lawful purposes is rather vigorously exercised. The prohibition of child-labor under the age-limit specified is about as general as industrial laws can make it. A legal living wage for female workers has been ordered by Congress for the District of Columbia and is an

¹ The trade-unionists of European countries are, as a result of practical experience with such laws, heartily in favor of complete systems of social insurance. The international programme of the Berne trade-union convention in 1917, for example, includes the following specific demand, which is already met in the labor legislation of Great Britain: "Countries which so far have not introduced insurance against sickness, industrial accidents, invalidity, old age, and unemployment shall obligate themselves to introduce such insurance at the earliest possible date."

accomplished fact in a dozen American states. Equal pay for equal work was insisted upon by the Labor Policies Board and demanded by the Women's Division of the Federal Department of Labor. One day of rest in seven has been similarly recognized. Congress has enacted eight-hour legislation for railway employees. Most of our states—there are still a few unfortunate exceptions—do not discriminate in matters of social insurance against the non-resident dependents of alien workmen. Factory and mine-inspection staffs, with women members, have been rapidly developed during the past generation.

These nine principles, however, constitute only a minimum programme containing only such demands as have been generally agreed upon by social economists as essential, and which have been practically applied in individual countries. Nor does the establishment of international minimum standards prevent a relatively progressive country from going forward in labor legislation. It, in fact, makes further progress in such countries more rapid owing to the removal of the earlier dread of international commercial competition and to the gradual realization through experience that scientific protective labor measures are of advantage to industry as well as to the workers.

Historical Basis for the Charter. — While not alarming in its substantive features, the *method* by which it is proposed to put this programme into international effect appears to excite some doubts in the minds of a few Americans. Let us inquire briefly how far such fears are justified in the light of experience.

Without due appreciation in America, there has developed in European countries in recent years popular and official recognition of the advantages of international labor agreements in the form of treaties. While we have

concerned ourselves with problems of interstate competition, and with efforts to secure more uniform state labor legislation, European countries have considered the like need of international agreement of the different labor codes.

At the Universal Exposition at Paris in 1900, a scientific organization "for the legal protection of labor" was formed, and is partially maintained by subsidies from twenty-two governments including our own.¹ The aims of this organization are especially to serve as a bond of union to those who, in the different industrial countries, believe in the necessity for protective labor legislation. The activities of this international association for labor legislation include the publication in French, German, and English of existing legal regulations in this field; the calling together of meetings of international congresses on the legal protection of the workers; and the preparation of memoranda to be used as the basis for international labor treaties. As a result of these activities, France and Italy in 1904 agreed to establish mutually advantageous provisions with regard to social insurance and the employment of women and children. Altogether, no fewer than twenty-three such agreements, principally for reciprocal action with regard to workmen's compensation or other forms of social insurance, have now been signed between the following countries: France and Italy (five treaties); Italy and Germany (two treaties); Germany and The Netherlands (two treaties); and one each between Italy

¹To meet the need for information and international discussion, there have been organized, in addition to this International Association for Labor Legislation, two other important international organizations interested in closely related subjects. The oldest of the three associations is the International Committee on Social Insurance, formed in 1889; the newest is the International Association on Unemployment, organized in 1910. They are working together in complete harmony.

and Switzerland; Germany and Austria-Hungary; Luxemburg and Belgium; Germany and Luxemburg; France and Belgium; France and Luxemburg; France and Great Britain; Hungary and Italy; Germany and Sweden; France and Denmark; Germany and Belgium; Germany and Spain; France and Switzerland; and the United States and Italy.

Most noteworthy of all, however, and especially instructive for our present guidance, are the first great international labor agreements or conventions, those of 1906 prohibiting the night-work of women and the use of poisonous phosphorus in the manufacture of matches. The first of these conventions has already been adopted by and been incorporated into the laws of thirteen European countries and eleven dependencies; the second by ten European countries and by thirty-three dependencies. By 1913 another series of proposals was submitted for consideration at Berne, and in 1914 delegates had been selected from all the important countries, including the United States, to attend the Eighth International Congress on Labor Legislation, at which specific proposals for several new international labor treaties were to be finally adopted.

This programme was temporarily interrupted by the outbreak of hostilities, but the principle of international labor treaties is accepted as sound and, by years of successful experience, is firmly embedded in the supreme laws of European lands. In the words of Édouard Fuster, General Secretary of the International Committee on Social Insurance, "One after another the nations have come to comprehend the value of a policy which, without discouraging economic initiative, and even in its interest, conserves the health and productive energies of the people." It is reassuring, also, that in the dis-

cussion on the subject, the peculiar problems of international administration have been clearly recognized.

That America has not yet seen fit to join the other countries has been a matter of no little embarrassment to those who have attended the international conferences on labor legislation and assisted in the preparation of the treaties. It is argued that the United States should not enter into such treaties, since it would be an encroachment on the powers of the states which alone have the power under the Constitution to deal with labor matters. It is questioned whether such a treaty would be within the constitutional powers of the treaty-making organs, the President and Senate, so that they would consequently be valid treaties, or whether even, admitting the power of the Federal Government to make the treaty, Congress could pass legislation to put it into effect. Recognizing that the United States should not stand aside from the work, so important to her, of leveling up international labor standards, and realizing that, as ex-Senator Sutherland has said, "precisely as public policy is more or less elastic, these principles are more or less elastic and expand and contract in response to the prevailing opinions of the times," a change in the present-day current of opinion is possible.

Constitutionality and Enforcement of International Labor Treaties. — The whole matter has recently been subjected to careful inquiry by Major Thomas I. Parkinson, one of our keenest legal critics, who concludes that, when there is a real reason for international action, such as the regulation of international competition, the American Federal Government can properly enter into labor protective treaties with other countries, and can enforce such treaties within the respective states. The chain of reasoning by which he reaches this conclusion is

so lucid and so well supported by recognized authority, that I take the liberty of summarizing it here.

To begin with, Major Parkinson points out that Article 6, Clause 2, of the Constitution makes treaties, along with the Constitution itself and all Federal statutes adopted in pursuance thereof, "the supreme law of the land, and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding." Furthermore, Article 3, Section 2, Clause 1, provides for the enforcement of treaties by declaring that "the judicial power shall extend to all cases in law or equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority." "No subject dealt with by the Federal Constitution," says Parkinson, "is more completely provided for by its express provisions. Nothing is left to implication. There is left to interpretation only the scope of the treaty-making power — the determination of the limits, if any, of the kind of subject-matter which may be dealt with by treaty."

While there are few precedents on the subject, the argument continues, no treaty provision has ever been declared unconstitutional as being beyond the scope of the treaty-making power. In the early days of the republic it was customary to justify treaty clauses, as well as other legislative acts, on the ground that they were of a kind commonly known at the time the Constitution was adopted, and therefore necessarily within the contemplation of its framers. This fact, however, gives no ground for rejecting treaty provisions which were not previously familiar to the makers of the Constitution, but which have since become advisable or even necessary because of a century's advance in economic and international relations. In dealing with such projected provisions, it is now estab-

lished that the test to apply is, whether they are within the spirit of the Constitution.

It has furthermore been established that the treaty-making power is not limited to matters which come within the sphere of congressional action. For instance, Congress could not enact a law regulating the right of succession to real estate within a state. Yet in 1817, in a Maryland case, the Federal Supreme Court sustained the provisions of a treaty between the United States and France which conferred on aliens the right to inherit property within a state, in spite of a Maryland statute to the contrary. This, and similar cases, "not only sustained the supremacy of the treaty provisions over state law, but they also indicated that the powers of the states were subject to interference by treaty to a greater extent than by act of Congress."

Still, it must not be assumed that the treaty-making power is entirely without bounds. Justice Field, in *Geofroy vs. Riggs*, 133 U.S., 267, stated that "the treaty power as expressed in the Constitution is, in terms, unlimited, except by those restraints which are found in that instrument against the action of the government or of its departments, and those arising from the nature of the government itself and of that of the states. It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the states, or a cession of any portion of the territory of the latter without its consent; but with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching any matter which is properly a subject of negotiation with a foreign country." With this principle as a guide, it would seem that if the matter under negotiation is one which requires agreement with

another country in order to prevent international competition from making against our welfare, or one which seriously affects the peace and welfare of the world and thereby of our own country, it would properly be the subject of a treaty. While the instrument cannot be inconsistent with, or destructive of, the Constitution, — as it would be, for instance, if it rendered meaningless the clause reserving certain rights to the states or to the people, — nevertheless, it may, as has been shown, be used to determine some matters of local law and government. “My own opinion,” declares Major Parkinson, “is that a treaty entered into by the President and the Senate, for the purpose of settling a matter which has been the subject of negotiation with another nation, becomes the supreme law of the land, notwithstanding that it deals with a matter of local concern. Such a provision, reasonably resorted to as a means of settling an international question, is binding upon both the federal and the state governments. It not only sets aside an inconsistent act of Congress or of the state legislature, but it also prevails over any subsequent state enactment.” Reasonableness, as in other matters of legal interpretation, seems here, also, to be the test.

The final point to consider in this connection is the means of making an international labor treaty effective in the states. It would seem essential to hold that the Federal Government has power to enforce an obligation it has assumed in the shape of a treaty entered into by the President and ratified by two thirds of the Senate. If it be felt that this power must be somewhere expressed in the Constitution, and not merely implicit in the inherent right to perform treaty obligations, recourse may be had to either the taxing power or the interstate commerce power, preferably the former.

To sum up, then, in Major Parkinson's cogent words: "The question, therefore, of the constitutionality of international labor legislation under our Constitution comes down to a question whether the subject-matter is one which reasonably calls for international rather than national disposition. If international competition or international coöperation in the interest of future peace and prosperity for all the nations and for each nation reasonably demands the settlement of labor problems jointly and simultaneously in all or several nations, including the United States, then the treaty-making power vested in our Federal Government by the Constitution extends to and justifies the inclusion of such provisions in a treaty made and ratified by the President and the Senate. Such a provision, duly included by our treaty-making authorities in an international obligation binding on the United States, may be carried out by the United States through an act of Congress based either upon inherent power to carry out the treaty obligation or upon the power to tax out of existence conditions contrary to the obligation thus assumed."

International Labor Relations an Encouragement to Permanent Peace. — No one who has followed closely the development of labor treaties during the past fifteen years will doubt that throughout the world of industrial nations there is to be a much greater growth of such international measures following the recent world-war.

At no time will uniform protective measures be more helpful than during the period of readjustment and reconstruction.

No country should appreciate more fully than our own the disadvantages of diverse regulations which follow half a hundred different geographical areas but recognize no continuity of trade-relations. Moreover, the entry of our

country into more immediate fellowship with the great family of nations will but accentuate the absurdity of the situation, if we Americans should find ourselves unable to participate in joint labor protections entered into by our sister nations.

Labor of the principal countries, including the United States of America, is unitedly demanding action. Manufacturers have long contended against local regulation and for uniform restrictions. At no point has their complaint been more vociferous or more consistently maintained than in national politics, and in furtherance of demands that they be protected against the competition of lower labor standards of Europe. Will our captains of industry now grasp the opportunity to secure a minimum standard that shall prevail, not merely as between our own fifty individual states, but as an international guaranty throughout the commercial world?

As the burdens of war become more apparent to the group whose members always bear its greatest cost in lives and physical suffering, the position of labor in national and international politics is likely to assume increasing importance. Demands for protective labor regulations, which shall create a minimum standard of labor conditions below which no employee shall be permitted to work, are likely to become increasingly pressing. These developments have already become exceedingly important factors in the determination of peace terms. Unfortunately, indeed, would be the effect if, in the crucial days of readjustment which, we hope, are to usher in the period of lasting peace, this government alone among the great nations of the earth should find itself unable, even for its own benefit, to enter into agreements for the common protection of the weakest of those engaged in the daily struggle for existence.

CHAPTER XIV

THE FREEDOM OF THE SEAS

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Complexity of the Term "Freedom of the Seas." — In all discussions of the war and of the peace settlement, the phrase "freedom of the seas" constantly recurs. One of the stated aims of the Pan-Germans in planning the war was to secure freedom of the seas from British domination; and the end of the war finds disagreement among the Allies as to what constitutes freedom of the seas. The phrase, glibly used, is seldom defined. It obviously includes numerous elements, is invested with various meanings by different persons, and demands contradictory results from the standpoints of the selfish national interests of present-day states. Some analysis of the term, therefore, is desirable.

Freedom of the seas, in a world made up, as at present, of a number of independent states, each aiming primarily at its own national welfare and aggrandizement, and recognizing war as the ultimate and legalized method of settling international difficulties, is, of course, quite different from freedom of the seas under a league of nations. This fact has caused considerable confusion, since some of the plans put forward, including President Wilson's proposal for the freedom of the seas as one of his fourteen points, assumed the establishment, after the war, of some sort of international organization. Such proposals have an entirely different significance if viewed in the expectation of reëstablishing conditions as they existed among nations before the war. Freedom of the seas, therefore, must be

analyzed from the standpoint both of the present world system and of a possible world organization of a different type.

The present political world is composed of about fifty sovereign states, each claiming external independence and legal equality. These states differ in size and population, in naval and military strength, in resources, in wealth, and in culture. Some are compact territorial units; others are composed of fragments scattered in all parts of the world. Some have no territorial outlet to the sea; others possess an extensive seacoast; still others are insular, being cut off on all sides by water-barriers. Some are predominantly agricultural and economically self-supporting. Others are industrial, needing to secure raw materials and food from outside their boundaries, and to find an outlet in foreign markets for their finished products. Some possess navies and merchant marines, and control strategic commercial positions; others lack these facilities. Since each is interested chiefly in furthering its own interests, under its own peculiar conditions, freedom of the seas will have, for different states, widely divergent and sometimes contradictory meanings. Under such conditions, indeed, freedom of the seas never has existed and cannot exist in any absolute sense. It is at best a relative matter, freedom for one state involving restrictions upon the freedom of others, whose needs are adversely affected.

The Closed Sea *versus* the Open Sea. — The original controversy over the freedom of the seas centred in the question whether the ocean should be a *mare clausum*, or closed sea, partitioned among the several states, each exercising jurisdiction over its particular area, or whether it should be a *mare liberum*, or free sea, outside the exclusive jurisdiction of any state, and open for common use.

In ancient and early mediæval times, the open sea was, in theory at least, free and common to the use of all. But

because of widespread piracy and the keen competition that resulted from the revival of commerce during the later Middle Ages, the maritime states of Europe claimed exclusive jurisdiction over their adjacent waters. Venice laid claim to the Adriatic, and Genoa to the Ligurian Sea, that is, to the seas adjacent to their coasts. Portugal considered herself the ruler of the Indian Ocean and of the southern portion of the Atlantic, while Spain contented herself with the modest claim of sovereignty over the Pacific and the Gulf of Mexico. The Scandinavian countries asserted sole authority over the Baltic and Arctic regions, and England took for her share the Channel, the North Sea, and the Atlantic from Spain to Norway. When, in the year following the discovery of America, Pope Alexander VI drew a line through the Atlantic and assigned to Spain the exclusive right to explore, colonize, and trade west of that line, and gave to Portugal similar rights east of the line, this assignment of the high seas to the exclusive jurisdiction of particular nations was considered perfectly proper.

These pretensions, which conflicted as to boundaries and which excluded many states, led to a great controversy, during which it was gradually realized that the sea was not adapted to effective occupation, and that an open sea was essential to international intercourse. Accordingly, states withdrew their claims of sovereign jurisdiction over the high seas, but were allowed to retain control over the strip of coastal waters within three miles of their shores. This provision was based on the theory that states should control waters which they could defend with their shore batteries, and the effective range of artillery fire at that time fixed the limit at three miles. States retained control also over landlocked waters and over bays indenting their coasts; and for some time narrow straits,

such as those between Denmark and the Scandinavian peninsula, were considered territorial waters, for the use of which sound dues were levied. The ultimate victory of the open-sea principle was foreshadowed in 1824, when Great Britain joined the United States in protesting against the claim of Russia to exclusive rights over Bering Sea, although the United States later partially revived the theory of jurisdiction over the high seas in its attempt to control the Alaskan seal fisheries. While the theory now obtains that the open sea is not the territory of any state, but is free for the common use of all, the surviving control over water outlets to the sea still prevents, in some cases, the full application of this principle. The control of the Dardanelles, excluding Russian war vessels from the Mediterranean, has been the chief example.

Freedom of the Seas in Time of Peace. — A distinction must be made between freedom of the seas in time of peace and in time of war. If freedom of the seas be defined as the right of any ship of any flag to sail the seas, outside territorial waters, without interference except by the action of its own state, then in time of peace such freedom virtually exists. Rules of navigation to prevent collisions must of course be mutually observed. Pirates, who are international outlaws, may be seized by the vessel of any state and tried in its courts. Small vessels suspected of engaging in the slave trade may also be stopped and searched in certain waters off the coast of Africa under international agreement. With these and such other exceptions as may be made by special treaties, the high seas are open in time of peace to the navigation of vessels of all states, without interference at the hands of other states.

Such freedom does not, however, give equal opportunity to all states in commerce, the purpose for which nav-

igation is chiefly valuable. In promoting their national interests, states place various restrictions on equal opportunity to use the seas. All states consider it a duty to use their law-making power to further their national interests in case of foreign competition. Thus, the United States excludes foreign vessels, except by special permission, from its coastwise trade, and interprets trade with the Philippines, Hawaii, and Porto Rico, as coming under that restriction. States often levy tonnage taxes or port dues at a higher rate on foreign vessels entering their ports than on their own ships, and aid their own shipping by means of bounties, subsidies, or highly paid mail contracts. Customs duties, while usually considered in the United States as a protection to American manufactures and as a source of revenue, are also a potent influence on the movement of vessels and goods on the high seas. Tariff barriers or trade embargoes are among the most powerful weapons that states can wield in their international rivalries. Trade follows the flag mainly because of the power to make laws over the territory brought under the flag.

States also use their treaty-making power in time of peace to make agreements that affect the freedom of commerce. Those whose interests coincide form economic alliances and discriminate against their competitors. *Zollvereins*, or customs unions, are created, preferential tariff-rates established, or reciprocity agreed upon. Most-favored-nation clauses and treaties establishing spheres of influence are indications of the economic jockeying by which states try to secure for themselves advantageous positions in the race for the world's trade. The mere right to use the sea is of little avail, if other states, by law or by treaty, make it impossible to share on a fair basis in the world's business.

Equal opportunity on the seas is also prevented by the

fact that ships and the facilities of commerce are not possessed by all states, and that the favored states often use their control of such equipment for selfish ends. States that possess large merchant marines, well-equipped port facilities, and bunkering stations at strategic commercial points have a strong grasp on international trade. They are in a position to control port charges, the price of bunker coal or fuel oil, marine insurance, and freight rates, and may use this power to discriminate heavily against their rivals. The abuse of this power may give a virtual monopoly of maritime business to the favored states. A powerful navy, even in time of peace, and by acts that fall short of positive hostilities, may be used to secure maritime advantages. Naval supremacy may enable a state to take possession of strategic commercial points, or to block effectually the attempts of other states to secure trade outlets to the sea. Actions of this type involve military and political considerations, as well as the desire to secure certain advantages on the seas.

The fundamental fact that prevents equal opportunity on the seas under the present régime, even in time of peace, is that the world is divided into competing political units, each using its governmental authority and its commercial equipment for the benefit of what it considers to be its peculiar national interests. The authority that frames the commercial policies of the world resides in these separate units, which by internal regulations and by external agreements attempt to secure maritime advantages over their rivals. Freedom of navigation exists in time of peace, but equal opportunities to benefit from this freedom are not possessed by all states.

Freedom of the Seas in Time of War. — If freedom of the seas in time of peace is limited indirectly through commercial control, in time of war it is practically non-

existent. The expression "freedom of the seas in time of war" is in fact a contradiction in terms. In time of war states fall into two groups — belligerents and neutrals. Belligerents desire to injure each other in any way possible; and one of the most effective ways is to cut off the enemy from all communication by sea. Neutrals desire to engage in trade as usual, with belligerents and with other neutrals, such trade, indeed, often being stimulated by the existence of war. Obviously, the rights of belligerents to wage war as they choose and the rights of neutrals to carry on commerce as they choose are in distinct conflict. International law, therefore, makes certain compromises, expecting each group to yield some of its privileges, and creates the rights of belligerents at sea and the rights of neutrals at sea.

The regulations concerning blockade, capture at sea, visit and search, and contraband are but elaborations of what, from one point of view, are limitations on the right of states at war to use the seas for the purpose of injuring their opponents, and from another point of view are limitations in time of war on the right of states not involved in the war to use the seas for purposes of trade. In time of war, consequently, the seas are not free to belligerents to wage war as they choose, nor are they free to neutrals to carry on intercourse and commerce as they choose.

In former times war was the normal condition among states; peace was an artificial relation secured by special arrangement. Diplomacy was employed as an aid to war, or as a substitute for it, rather than as a means of preserving peace; and foreigners were regarded as enemies, without legal rights or obligations. Under this doctrine neutrals had few rights as against belligerents, who desired to wage war, the chief enterprise of states, without

limitation upon their activities. Injuries suffered by neutrals were unfortunate, but to be expected if states were so foolish as to keep out when a good fight was on.

Increasing efforts to avoid war and to safeguard the rights of neutrals in time of war, especially on the part of small commercial states, were largely responsible for the creation of that body of rules and principles called international law. Limitations were placed upon the right of belligerents to wage unrestricted warfare, and safeguards were granted to the growing rights of neutrals to engage in their ordinary affairs during war-time. It was no accident that Grotius, the father of international law, was a Hollander, and that the United States, with its policy of keeping out of European entanglements, was interested in the rights of neutrals. International intercourse thrives in time of peace; and neutral commercial states are interested chiefly in replacing the rule of force by the rule of law.

At present, in theory at least, war is an abnormal or exceptional relation among states, the presumption, even in war-time, favoring the rights and privileges of neutrals in their peaceful relations with one another and with belligerents. Belligerent rights at sea, therefore, are limitations upon the general rights of those who are not at war. They are privileges granted by international agreement to belligerents, to enable them to wage effective war; and to that extent they destroy the free use of the seas, which belongs to all nations. In time of war, freedom of the seas ceases to exist in proportion to the rights granted to belligerents to use the seas for the purpose of waging war. Freedom of the seas in time of war means either (1), the right of belligerents to wage war at sea without the necessity of considering neutral rights, which would of course destroy the freedom of the seas for neutrals; or (2), the

right of neutrals to engage in commerce without interference from belligerents, which is practically impossible, and which would destroy the rights of belligerents to engage freely in their perfectly legitimate undertaking of making war. The actual solution is a compromise by which belligerents may interfere somewhat with the freedom of neutrals to use the seas for ordinary purposes, and by which neutrals may interfere somewhat with the freedom of belligerents to use the seas for purposes of warfare. Thus, in time of war, there is actually freedom of the seas for no one.

Whether in practice the rights of neutrals or the rights of belligerents will receive chief attention depends largely upon the relative strength of the states engaged in war as compared with those remaining neutral. In a war between small states, with the great maritime powers remaining aloof, the rights of neutrals will be jealously safeguarded, and the belligerents will be compelled to observe the strict letter of the law in waging war at sea. In a world-war, involving the national existence of great powers, the rights of neutrals will receive little consideration. This point is illustrated by the position of the United States during the Napoleonic wars, when our commerce was illegally injured by both France and Great Britain, and when, in spite of an earnest desire to remain neutral, we were compelled to declare war against France, and shortly after to wage war against Great Britain. A similar situation arose during the first period of the recent Great War. The United States, as the leading commercial nation not engaged in the war, found the freedom of the seas, from the neutral's point of view, attacked by both belligerent groups. Great Britain, in her blockade policy, her black-lists, her extension of the contraband lists, her interpretation of the doctrine of continuous voyage, her seizure

of the mails, and similar policies, asserted the necessity of using the seas primarily for the purpose of waging war. Germany also, with her war zones, her use of mines, and especially her submarines, ignored the freedom of the seas which international law leaves to neutrals. Other countries, such as Holland and the Scandinavian states, more directly affected in their neutral rights by the policies of the belligerents, found their positions even more difficult. So complete is the conflict between the maritime interests of belligerents and of neutrals in the complex economic life of to-day, that it is practically impossible for an important commercial state to remain neutral in a great war. Under such conditions, freedom of the seas in time of war has but little significance.

If it be found impossible to create or to maintain an effective league of nations, which will make war unlikely, the rules of maritime warfare should be revised to prevent certain atrocities resulting from new means of warfare at sea, to give the preference to commerce rather than to war on the world's highways, and to enlist the support of all neutrals for the enforcement of these rules against belligerent encroachment. Such rules might include the prohibition of the use of submarines, the extension of the three-mile zone of territorial waters, the prohibition of placing mines on the high seas, the limiting of blockade strictly to belligerent countries, the prohibition of the destruction of merchant vessels at sea, the reduction of naval armaments, the abolition of the distinction between contraband and non-contraband, and the prevention of private manufacture of munitions. Except in a world-war involving most of the great maritime powers, in which rules of naval warfare are always likely to go by the board, the enforcement of such rules would mark a distinct advance toward the freedom of the seas.

American, British, and German Theories. — Maritime neutrals have most to fear from the power that controls the sea. Until Germany embarked on her submarine campaign, our commercial interests suffered most from Great Britain's policy. It was the use of the submarine which enabled Germany to damage neutral commerce to a greater extent than did the restrictions imposed by the Allies.

This suggests the fact that in a great war there will be three main attitudes concerning the freedom of the seas. The fundamental opposition will be found between the interests of neutrals and of belligerents. A secondary difference will arise between the belligerent that controls the sea and its opponents. This conflict of interests among the maritime neutral, the naval-power belligerent, and the land-power belligerent was clearly brought out in the first period of the Great War, and explained the widely divergent views concerning the freedom of the seas held respectively by the United States, Great Britain, and Germany.

The United States is a large exporter of raw materials and manufactured goods. It also imports commodities on a considerable scale. Its foreign trade is carried almost entirely by sea. Previous to its entry into the war, the United States had kept aloof from European politics and viewed international relations from the position of a probable neutral state. Accordingly, the United States conceived freedom of the seas to mean that foreign trade should remain, as far as possible, unrestricted under war conditions. In general, the United States upheld the principle that free ships should make free goods — that is, that goods carried in neutral ships should not be captured; and that free goods should make free ships — that is, that neutral goods, except contraband, should

not be captured, even in belligerent ships. The United States favored extending to private property at sea the same immunity from arbitrary seizure in case of war which international law confers upon private property on land.

Great Britain, an island kingdom, maintaining her economic position and even her national existence through sea traffic, and fully realizing the necessity of possessing the power to dominate the sea, if involved in war, maintains that any conception of the freedom of the seas must provide for the continuance of her naval predominance. Great Britain claims that freedom of the seas has existed for a long time, that it is maintained by the British fleet, that she has policed the seas, exterminated pirates, improved the facilities of commerce, and opened up new regions to civilization and trade. Concerning capture at sea, Great Britain supports the principle that free ships make free goods, with the exception of contraband, but refuses to agree to the doctrine that free goods make free ships. Blockade is considered a necessary right in case of war, and the legitimacy of each blockade is to be judged in accordance with the conditions of each particular case. Great Britain points to the results of her reign on the seas and to her abstention from abusing her power as arguments for its continuance.

Germany, lacking a safe outlet to the high seas in time of war, while becoming increasingly dependent upon foreign trade, was supreme on land, but was checked in her policy of world expansion by the supremacy of the British fleet. Hence, she would have freedom of the seas interpreted to mean that no blockade of any port should be permitted, and that none of the commodities of commerce, except munitions, should be considered contraband of war. Germany would permit all commerce to move freely in all directions, in war as in peace, so that she could

obtain food and raw materials in time of war, in spite of Britain's naval supremacy. But she would have munitions debarred as contraband, so that her foes could not replenish their military supplies.

Factors Determining Attitude on the Freedom of the Seas. — The preceding analysis of the conception of the freedom of the seas indicates that the main factors that will determine the attitude of a given state are the following: —

1. Whether the state approaches the question from the point of view of a probable neutral or a belligerent. That is, whether or not the state looks upon war as desirable or necessary to the accomplishment of its policies, and expects, in case of a general war, to be an interested party or a bystander. This will determine whether, in case of war, the given state will be interested in the rights of neutrals or in the opposite rights of belligerents. In this connection it may be observed, that Germany's attitude toward freedom of the seas, as a potential belligerent, is quite similar to that of the United States as a neutral. Maritime rules which are to our advantage in carrying on peaceful commerce are also favorable to Germany when planning aggressive conquests. If given a free hand on land, Germany is perfectly willing to support the freedom of the seas. This helps to explain the difficulties encountered by the Allies in agreeing upon a satisfactory definition of freedom of the seas, and will probably be used by the German delegates in the hope of separating the United States from the other Allies.

2. Whether the state possesses a large merchant marine and an extensive foreign commerce; or whether the importance of ocean trade in its economic life is relatively small.

3. Whether the state possesses a powerful navy and is able to protect its commerce if it remains neutral or to

control the sea in case it engages in war; or whether it is dependent upon other states to protect its commerce as a neutral, or is at the mercy of its opponent in case of war at sea.

Obviously, a commercial state, with large interests in ships and foreign trade, stands to lose most heavily when war between great powers puts ocean trade in jeopardy. On the other hand, the state that possesses the most powerful navy and controls the sea naturally expects in time of war to gain most by destroying the vessels and the trade of its opponents or, indirectly, of neutrals. When a state possesses both the largest maritime interests and the most powerful navy, as in the case of Great Britain, its attitude toward the freedom of the seas is complicated, so far as the capture of private property is concerned. If it favors the right to seize private property at sea in time of war, it must risk damage to its own essential interests, because it trusts its naval supremacy to protect its own vessels and to do greater harm to its enemies. If it favors the abolition of the capture of private property at sea, it safeguards its commercial interests, but gives up the powerful weapons of blockade and capture against its opponents.

The United States has, except during the blockade of the Southern ports in the Civil War, when it adopted an extensive policy of interference with commerce, uniformly favored the adoption of the principle of total immunity of private unoffending property from capture at sea. In 1785, Franklin negotiated a treaty between the United States and Prussia which included such a provision. In 1823, John Quincy Adams, then Secretary of State, proposed exemption of private property at sea to Great Britain, France, and Russia; and in 1856, the United States refused to give its adhesion to the Declaration of Paris unless it was extended to include this exemption,

Italy adopted the principle in a treaty with the United States in 1871, and in 1904, the Congress of the United States adopted a resolution in its favor. The American delegates to the First Hague Conference presented a memorial in its behalf, and at the Second Hague Conference the United States seriously urged its acceptance. Twenty-one states voted in favor of the proposal, eleven opposed it, and twelve refrained from voting. Since the opposition included such important maritime powers as Great Britain, France, Russia, and Japan, nothing could be accomplished.

On the continent of Europe there has been considerable sentiment in favor of this step toward freedom of the seas, but in Great Britain the weight of opinion has strongly opposed. The threat against British naval supremacy caused by the submarine and aeroplane, the growth of the maritime and naval interests of the United States, and the abandonment of our former policy of neutral isolation, should make it easier for Great Britain and the United States to agree on a common policy concerning capture at sea; and should make both states willing to revise the rules of maritime law.

In expanding the conception of the freedom of the seas, the United States took a leading part in destroying in 1815 the claims of the Barbary States to prey upon vessels that refused to pay tribute, and in securing in 1857 the abolition of the sound dues, or tolls, levied by Denmark on vessels passing to and from the Baltic. The United States also consistently opposed the claims of European states to the right to search merchant vessels in time of peace. This issue came to a crisis at the time of the War of 1812, and while the Treaty of Ghent at the close of that war was silent on the question, American vessels were not subjected to search afterward.

Freedom of the Seas and the League of Nations. — Ideal freedom of the seas means the equal right of all states, regardless of size or strength, to use the high seas for legitimate purposes, and excludes the right of any state to exercise jurisdiction, except in territorial waters, over other than its own vessels. Under the present system of world organization, such freedom never exists. In time of peace the rival interests of states lead to various forms of interference under the guise of commercial competition. With a fair degree of good-will on the part of all states, such discriminations, with the exception perhaps of the vexed question of tariff duties, might be satisfactorily adjusted. But in time of war, the freedom of the seas becomes a meaningless phrase, with irreconcilable differences between the attitudes of neutral and belligerent, and of sea-power and land-power. So long as states determine their commercial policies wholly from a selfish and national standpoint, and appeal to war for the ultimate decision of their disagreements, the freedom of the seas, which belongs to no state, will offer insuperable difficulties. All things considered, it is perhaps fortunate that a single state has been able to rule the seas during the past century, and that its maritime despotism has been in general so unselfish and so just. With the rise in recent years of other states to commercial and naval power, and with the keen competition that British interests now face in all parts of the earth, it is no longer safe or desirable to trust the world's highways to any single state.

Regulation of the seas there must be, even in time of peace, as the use of the seas involves friction at some points; but as soon as navigation is regulated, perfect freedom of the seas disappears. Freedom of the seas is, therefore, a question of degree, depending largely upon the nature of the authority that frames the policy and

administers the rules. Such authority should, under present world conditions, be international.

Since it is especially in time of war that the conflicting interests of neutrals and belligerents destroy real freedom of the seas, that the process of waging effective warfare demands interference with the normal right of all states to use the seas, and that the pressure upon neutrals tends to compel them to enter the war if they wish to possess any status on the seas, any serious attempt to establish the freedom of the seas must be accompanied by a guaranty against war. Only under a league of nations, with an international organization powerful enough to limit the use of force — economic, military, or naval — to the coercion of a state outside the league or to a recalcitrant member of the league, can the freedom of the seas be safe and permanent. Only after the establishment of such a world system can any meaning be found in President Wilson's definition of freedom of the seas as "absolute freedom of navigation upon the seas, outside territorial waters, alike in peace and in war, except as the seas may be closed in whole or in part by international action for the enforcement of international covenants."

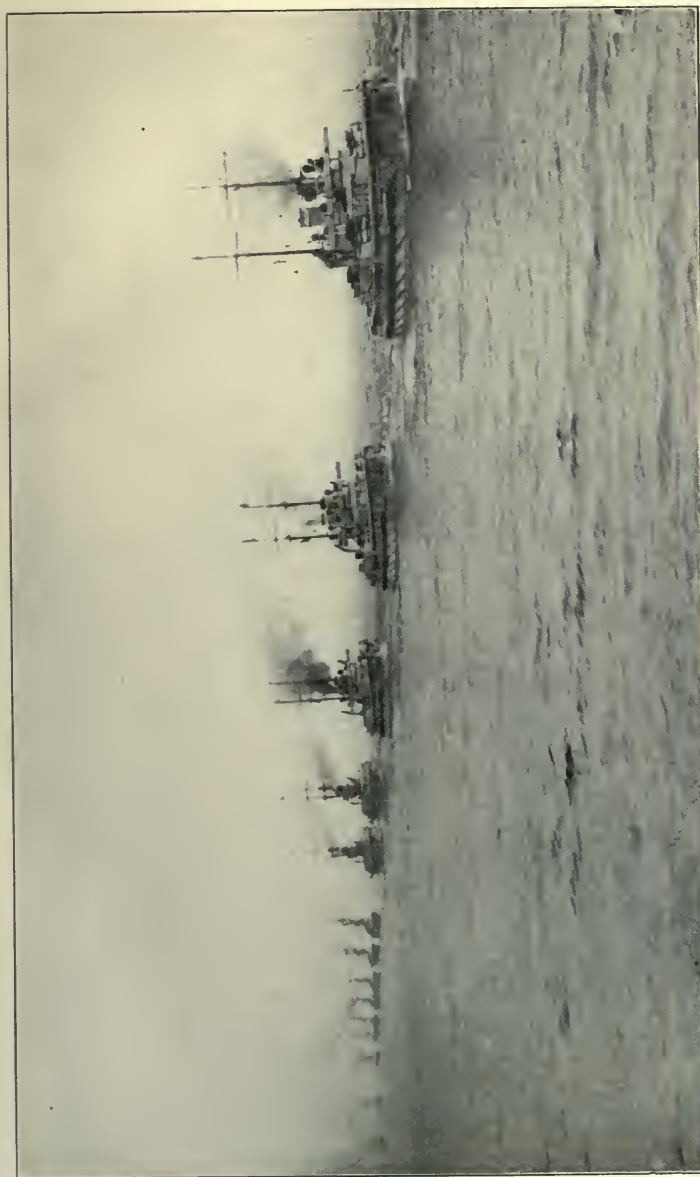
If there be established an actual and operative league of nations, which, under specific agreements, affords mutual guaranties of the national and international rights of its respective members, a part of such guaranties should be the absolute freedom of navigation on the seas, outside territorial waters, whether in peace or war. For no war could exist except a war between the League as a whole and some non-member or some disobedient member, and all trade between such state and the League would be prevented by the common authority.

The idea of international regulation of maritime interests is not so revolutionary as it first appears. During

the Great War, the Allied Maritime Transport Council, composed of representatives of Great Britain, France, Italy, and the United States, operated the pooled shipping and commercial resources of the Allies. This body recommended to the governments of the Allied nations policies according to which raw materials were allotted among them according to their needs rather than their national interests, and gave priority to such needs as furthered the common interests of all in winning the war, rather than to those which were urged by individual states for selfish purposes. Vessels under the flag of the Allied Maritime Council now sail the seas, and powers similar to those exercised by that body, but adapted to peace needs, will be retained for some time and could be transformed into the maritime administrative policies of a league of nations.

The repatriation of troops, the restoration of the devastated regions, and the averting of famine demand international allotment of shipping facilities, to prevent the suspicion that certain countries are avoiding their responsibilities in order to gain commercial advantages. The transfer of freight rates from a war to a peace basis also needs international control, to prevent commercial chaos, rate wars, and international bad feeling. Even after the establishment of peace conditions, certain commercial practices and discriminations might be forbidden as undesirable, and the administration of such regulations could be intrusted to the permanent maritime agency of the League. Even if the power of such a body were limited, as during the war, to investigating conditions and to recommending certain policies to the governments of the separate states, its existence would be of great value.

Aside from the difficulties involved in the organization of such a league, in the determination of its policies, and



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THE SURRENDER OF THE GERMAN FLEET

in deciding the degree of maritime regulation that is properly international in scope, one major difficulty concerning the freedom of the seas still remains. It is necessary to determine whether member states shall give up their national navies and entrust the enforcement of the policies of the League to an international naval police, or whether the League shall merely frame certain maritime and naval policies and commit their execution to the navies of one or more member states. The natural unwillingness of states whose existence depends upon sea-communications to yield control of their naval safeguards to an organization concerning whose future policies they have little knowledge, makes it unlikely that the great maritime powers will at present consent to the sacrifice of their naval armaments. Even if navies remain national, the agreement to submit the determination of maritime policies, in part at least, to an international organization, would be a notable advance; and a considerable reduction in naval armaments and expenditures would be possible. Unless there be accomplished such a reduction of the intolerable burdens and suspicions which international competition in armaments creates, any attempt to establish world unity will rightly be considered a sham.

Any expectation of creating immediately a full-fledged league of nations that shall be a perfect and permanent organization of the world is doomed to disappointment. The spirit of unity and the realization of common interests that must underlie a satisfactory world organization demand a long period of gradual adjustment between national and international control, and a change in attitude which can result only from experience in working together. To attempt too much is to court failure and reaction. Complete international control of the sea and of its approaches, natural and artificial, and of the world's

merchant marine, cannot be immediately expected; but the seas, as the property of no state, are essentially international territory. They are, therefore, particularly adapted to joint regulation, provided that recognition is given to the fact that some states have greater interests involved than others. Nothing would so dignify the authority of an international tribunal as to give it jurisdiction over the navigation of the open seas, the great highways of international intercourse and trade.

And no problem more seriously threatens the future peace of the world, especially in the relations of those states whose common history and traditions should make them the upholders of justice and the leaders of world progress, than maritime and naval rivalry. The very difficulty of the problem emphasizes the danger of delay and the necessity of reaching an understanding. Naval competition between the British Empire and the United States, growing out of commercial rivalry made doubly keen by our recently acquired merchant marine, is the alternative to coöperation in a league of nations. It would be a great misfortune if the destruction of the Balance-of-Power theory on land should be followed by the establishment of the same theory on the sea. "The free, constant, unthreatened intercourse of nations is an essential part of the process of peace and of development." The freedom of the seas, and the League of Nations with certain jurisdiction over the seas, are, to a considerable degree, coincident. Freedom of the seas, like any other kind of freedom involving numerous and conflicting interests, is possible only under law; and can be realized only if all states possess equal privileges on the seas, subject to a common authority superior to all.

XV

THE UNITED STATES AND THE POLICY OF ISOLATION

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Fundamental Principle of Diplomacy.—The student of diplomacy, as he makes his way through its mazes, will in time become conscious of something very like a fundamental principle. He will recognize, it is safe to say, that the broad lines of a foreign policy are in the long run determined by physical conditions. Geographical position, more than any other factor, perhaps, indicates to a people the metes and bounds of national interests, as Augustus sought the natural confines of his empire on the Danube and the Rhine. This is especially apparent where a state has had sufficient stability to survive the errors of false ambitions and temporary deviations, and to exhibit the more vital and permanent elements of national policy. Thus, when Marshal Foch demands that France find her security on the Rhine, he but reverts instinctively, as a Frenchman, to the "doctrine of natural limits" of Richelieu and Mazarin. Russia, again, has pursued her secular march to the sea with singular tenacity and with all but complete success. Of all European diplomacies, however, that of Great Britain is the most uniform. Throughout her long, crowded history runs a continuity of policy as intuitive as it is unique. Two constants have determined its "curve" — insular position and Continental proximity. To safeguard the one calls for naval supremacy; to eliminate the danger implicit in the other dictates a necessary

interest in the political fortunes of the smaller states lying along the lines of diplomatic pressure that stretch from the North Sea to the Alps. Hence the big navy, and neutralization treaties. But apart from these, no other policies have in the past been fundamental for Great Britain, though many have from time to time been accessory.

For this second principle will also be clear on a long view of diplomatic history — that in exceptional circumstances a state may have to supplement or even to modify its “natural” diplomacy by engagements which ordinarily it would not assume, and which it usually terminates as soon as possible. “International policy,” says Bismarck in one of his frank moments, “is a fluid element which under certain conditions will solidify, but on a change of atmosphere reverts to its original diffuse condition.” In fine, there is always a tendency to get back from the “variables” imposed by necessity or expediency to the constant elements of the national tradition.

Early American Diplomacy.—American diplomacy, it will be found, confirms these generalizations to a notable degree. From the first, physical conditions have, in the diction of Jefferson, set its compass and pointed the course to be steered through the ocean of time. And the course has been singularly direct. Its “curve” is essentially a straight line. The result has been a rigid policy, —

Of whose true-fixed and resting quality
There is no fellow in the firmament.

Geographical isolation served to make more complete American separation from the artificial diplomacy of the eighteenth century, an age of pragmatic sanctions and family compacts and partitions in the name of the Holy Trinity. Not that the colonies were always thus isolated. In spite of physical detachment, they had had a vital

interest in every oscillation of the European system; for as often as Frederick and Louis took up their kingly arguments in Europe, English and French colonists in America fought each other, from Louisburg to Duquesne.

With independence, however, came emancipation from Europe's wars, if only the states could keep aloof from quarrels on their own account. No geographical proximity operated to modify, as in the case of Great Britain, the advantages of isolation. The disruption of the Revolution put them out of the British orbit without making them a satellite of the French. This may seem strange in view of the treaty of alliance and the deep impression French coöperation had made upon the popular imagination. But racial antipathy, intensified by a century of colonial warfare, was latent in many of the American leaders. "Jay," Adams records in his diary, "likes Frenchmen as little as Mr. Lee and Mr. Izard did. . . . The Marquis de la Fayette is clever, but he is a Frenchman." Commercial ties with the mother country, which political separation had failed to sever, created an opposition of interest to France. Finally, the question of the Mississippi was looming up, and France was suspected of supporting the Spanish position. Thus the United States from the outset escaped from the Franco-Spanish system and, with it, from direct entanglement in European broils.

Isolation, therefore, was the "natural" policy for the United States to pursue. But the fathers were not doctrinaire about it. They were ready, as occasion demanded, to make alliances for temporary and limited purposes, but on a "change of atmosphere" always returned to first principles. Here a study of the diplomatic conduct of the Revolution is valuable as showing how intuitively the essential principle was grasped, how cautiously departure from it was considered. The policy of isolation is older

than the Farewell Address, and even the "entangling alliances" of Jefferson is but the echo of Congressional debates. Washington does not originate; he merely promulgates, with the compelling authority of the man, the office, and the hour, a principle coeval with independence itself.

For instance, in September, 1776, in discussion upon the draft treaty to be presented to France and other powers, John Adams characteristically advocates a foreign policy of independence, and this at a time when need of French assistance was dire. "Our negotiations with France," he says, "ought to be conducted with great caution, and with all the foresight we could possibly obtain; . . . we ought not to enter into any alliance with her, *which should entangle us in any future wars in Europe*;¹ we ought to lay it down, as a first principle and a maxim never to be forgotten, to maintain an entire neutrality in all future European wars; . . . it never could be our interest to unite with France in the destruction of England. . . . On the other hand it could never be our duty to unite with Britain in too great a humiliation of France; . . . Therefore, in preparing treaties to be proposed to foreign powers . . . we ought to confine ourselves strictly to a treaty of commerce; such a treaty would be ample compensation to France for all the aid we should want from her."² In additional instructions issued to the peace commission on October 16, 1776, Congress would have them negotiate treaties that "do not oblige us to become a party in any war which may happen in consequence thereof."³

But Congress knew when to depart from this policy. A

¹ Italics throughout are those of the writer.

² John Adams, *Works*, vol. II, p. 505.

³ Wharton, *Diplomatic Correspondence of the American Revolution*, vol. II, p. 172.

treaty of alliance was made with France, and another offered to the Netherlands for the duration of the war. To secure the assistance of Spain, Congress, by resolution as early as December 30, 1776, proposed, in a certain contingency, to declare war on Portugal, "if that measure shall be agreeable to and supported by, the Courts of France and Spain"; and further promise was made to assist the Bourbon powers in the reduction of the English sugar islands, both with ships and supplies, and "to render any other assistance which may be in their power, as becomes good allies, without desiring for themselves the possession of any of the said islands." Even Jay, we are told, on one occasion "loudly commended the triple alliance of France, the United States and Spain."

This flexibility of foreign policy to meet the necessities of the moment is well illustrated by the position taken by Congress relative to the Armed Neutrality of 1780. When Catherine of Russia intimated her resolve to make belligerents respect neutral commerce, she issued a declaration setting forth certain liberal principles of maritime law, and announced that she was prepared to maintain them by force, if necessary. Americans could not but welcome her action, for they had consistently advocated the proposed rules. Further, the league of neutrals to be formed to impose this régime upon belligerents was likely to embarrass Great Britain, against whose naval practice Catherine's declaration was chiefly directed. Accordingly, on October 5, 1780, Congress ordered "that the ministers plenipotentiary from the United States, if invited thereto, be and hereby are respectively empowered to accede to such regulations, conformable to the spirit of the said declaration, as may be agreed upon by the Congress expected to assemble in pursuance of the invitation of her Imperial Majesty."¹ And Adams, in transmitting this

¹ Wharton, *Diplomatic Correspondence*, etc., vol. iv, p. 80.

resolution to the States General of the Netherlands, expressed the hope that it might "not be thought improper that the United States should become parties to it, entitled to its benefits, *and subjected to its duties.*" But the United States was never invited to accede, and with the signing of peace preliminaries a "change of atmosphere" had occurred. Independence was won, and the necessity for support, which was stated to be the chief purpose of the instructions of 1780, was superseded by the treaties entered into for the restoration of peace. The inevitable return to "natural" policy followed, and, on June 12, 1783, Congress came to the following resolution:—

Whereas the primary object of the resolution of October 5, 1780, and of the commission and instructions to Mr. Dana relative to the accession of the United States to the neutral Confederacy, no longer can operate, *and as the true interest of the States requires that they should be as little as possible entangled in the politics and controversies of European nations*, it is inexpedient to renew the said powers, either to Mr. Dana or to the other ministers of these United States in Europe. But inasmuch as the liberal principles on which the said Confederacy was established are conceived to be, in general, favorable to the interests of nations, and particularly to those of the United States, and ought, in that view, to be promoted by the latter as far as will consist with their fundamental policy,

Resolved, that the ministers plenipotentiary of these United States for negotiating a peace be, and they are hereby, instructed, in case they should comprise in the definitive treaty any stipulations amounting to a recognition of the rights of neutral nations, to avoid accompanying them by any *engagements which shall oblige the contracting parties to support those stipulations by arms.*¹

Here we have the chief tenets of American diplomacy in small compass. And observe the reference, in 1783, to a *fundamental policy*.

¹ Wharton, *Diplomatic Correspondence*, etc., vol. vi, pp. 482, 483.

The Farewell Address has of late emerged from the penumbra of misconceptions that used to envelop it. The critical attention which it, along with other early expressions of American policy, has received makes unnecessary any extended discussion of it here. It may be noticed, however, that Washington did not blink the possibility of American participation in European wars or political alliances. On the contrary, the Address contemplates "extraordinary emergencies," to meet which "temporary alliances," in his judgment, would suffice. It was against the ordinary vicissitudes, artificial ties, and permanent alliances of European politics—in a word, against European "systems"—that his matured counsel was directed. He was no pacifist and had no illusions. A paragraph in his annual message of 1793 relative to the enactment of neutrality laws should be attached as a rubric to the Farewell Address. "The United States," he said, "ought not to indulge a persuasion that, contrary to the order of human events, they will forever keep at a distance those painful appeals to arms with which the history of every other nation abounds. . . . If we desire to avoid insult, we must be able to repel it; if we desire to secure peace . . . it must be known that we are at all times ready for war."¹ In the Address itself, his evident concern is to tide over the period of adolescence, "to gain time to our country to settle and mature its yet recent institutions." His anxiety was real but his faith was high. "If we remain one people . . . the period is not far off when we may defy national injury from external annoyance." But when the United States should have, "humanly speaking, the command of its own fortunes," then it could speak out loud and bold; then "we may choose peace or war *as our interests, guided by justice, shall counsel.*" Clearly a flexible

¹ *American State Papers, Foreign Relations*, vol. 1, p. 22.

diplomacy and quite in conformity with the two principles of the "constant" and the "variables" — the "natural" policy of isolation and "temporary alliances" for "extraordinary emergencies."

The Monroe Doctrine and the Policy of Isolation. — The Monroe Doctrine has by some writers been distinguished from the policy of isolation, and possibly engagements might be made which would qualify the one without affecting the other. But both spring from the same source — the fundamental right of self-preservation. The true aim of every sound foreign policy is the maintenance of independent sovereignty. Isolation, passively, and in a sense negatively, asserted in the first half-century of American national life, effected this maintenance with success, due in large measure to the great good luck that the European states had been continuously preoccupied with their own "primary" interests. But when, in 1823, the importation of the European political system was threatened, self-preservation demanded a more positive declaration that the United States intended to preserve its traditional detachment from European affairs — for that, after all, is what the Monroe Doctrine means to say. It need not be again repeated that the Doctrine is not an expression of altruism, nor yet a formulation of an American *system*. It arrogates to the United States no hegemony and assumes no responsibilities. It is merely an assertion of national policy. "Our rights are invaded," "our peace and happiness" are endangered, when a "system" imposes a political settlement upon a neighbor. *Nam tua res agitur paries cum proximus ardet*. And, as pointed out by Mr. Root, this right of self-protection finds adequate sanction in international law, for it but reaffirms the well-established "right of every sovereign state to protect itself by preventing a condition of affairs in which it will

be too late to protect itself." But for the purpose of this discussion the essential point is that the Monroe Doctrine leaves the policy of diplomatic isolation intact. After its formulation, as before it, the United States remains free from any commitments toward either Europe or the two Americas.

Historically, the two policies have arisen from the same need and thus far have been correlatives. Under them the United States says, in effect, "We will keep away from Europe; Europe must keep away from us." Whether there is any philosophic necessity in this correlation, so that, when isolation goes, the Doctrine goes with it, or whether the one can be given up and the other survive, "whole and entire," is the real problem raised for Americans by the League of Nations. As to which problem, this discussion does not propose to affirm the finality of any particular solution, but contents itself with examining the issue and defining its terms.

Revolutionary diplomacy, the Farewell Address, and the Monroe Doctrine, as we have seen, all reveal a common underlying principle, and nothing will be added to our concept of it by a recital of its modern instances. Almost always in the past century American diplomacy manifests a predetermination to keep aloof, even where coöperation is desirable *per se*. The Act of the Berlin Conference of 1885, for example, though signed by two American delegates, was not submitted to the Senate for its ratification, President Cleveland holding "that an engagement to share in the obligation of enforcing neutrality in the remote valley of the Congo would be an alliance whose responsibilities we are not in a position to assume."¹ There are, it is true, two European political transactions to which the United States is party—the

¹ *Foreign Relations of the United States*, 1885, p. ix.

Brussels Act of 1890 respecting the East African slave trade and the Algeciras Act of 1906 relative to the commercial status of Morocco. Both, however, have been ratified under reservations, "without purpose to depart from the traditional American foreign policy which forbids participation by the United States in the settlement of political questions which are entirely European in their scope."¹ The same attitude has been maintained toward what is called the public law of Europe. Thus the "ancient rule" of the Ottoman Empire, closing the Turkish Straits to vessels of war, has never received official recognition from the United States, which has strictly reserved its freedom of action under international law.²

Achievements and Limitations of the Policy of Isolation.—So much for the historical development of the policy of isolation. A word on its accomplishment and its limitations. Any assessment of the policy will assign at least four main achievements to its credit, apart from the realization of its fundamental purpose—the preservation of the national sovereignty. In the first place, the development of a high standard of neutrality, perhaps the most important American contribution to international law, was possible only because of the insistence of Washington's government upon remaining isolated when the French Revolutionary wars broke over Europe. Next, the doctrine of recognition, as applied to new states, was established largely through the practice of the United States, which, by maintaining strict neutrality, could make the test of recognition a combined matter of fact and of right—the fact of independence successfully

¹ Malloy, *Treaties of the United States*, vol. II, p. 2183.

² It has, however, always conformed to the traditional rule by seeking permission of the Sultan for passage of American warships, and by accepting his decision when adverse to its request.

asserted and the right of the new community to demand its acknowledgment—quite aside from any diplomatic interests that neutral powers may have in the matter. Thirdly, the adoption of the Open-Door policy in China was in all probability ensured only because of the detachment of the United States from the alignments of European diplomacy. Lastly, the Monroe Doctrine, incidentally to its assertion as a national policy of the United States, has kept from Latin America the dangers arising from diplomatic and military interventions. Undeniably an excellent record of genuine achievement!

On the other side of the ledger we must place the hesitation of American governments to exercise the full weight of their influence in favor of moral and humanitarian movements through fear of departing from traditional policy. The United States, no more than the European Concert, has intervened to save Armenia. In 1885, it "did not feel entirely prepared to join" in an international agreement regulating the traffic in arms and alcohol in the Western Pacific Islands, though "recognizing and highly approving the moral force and general propriety of the proposed regulations."¹ And, while taking its share in the suppression of the slave trade, it consistently refused to give up the historic position for which it had fought the War of 1812, even though reciprocity in the right of search would have rendered the measures taken more effective.²

But the most baneful effect of isolation has been a profound incuriosity toward world politics. The United States had let alone and been let alone so completely that

¹ *Parliamentary Papers*, 1887, *Western Pacific*, (C. 5240), pp. 30-31.

² In 1862, however, a treaty was made with Great Britain by which the mutual right to search each other's vessels was accorded, though within strict geographical limits.

American public opinion, almost without exception, failed to notice, much less to comprehend, the tendencies of European diplomacy that were fast leading to the fateful issue of a world-war. Even among those interested, few seem to have grasped the underlying concepts of the European system, so different is the political climate in which the American outlook is formed. Comment on the balance of power, for instance, was often uncritical and usually supercilious, no distinction being made in its multiform oscillations between good results and ill. As the principle of the balance has been raised in a direct way in discussions on the League of Nations, and as its operation, in the event that the League should not be realized, would be on a greater scale than before and of vital moment to the United States, it may not be amiss to try to analyze, in few words, the state of facts from which it springs and the historical basis upon which it rests.

Principle of the Balance of Power.—The balance of power — or, more correctly, *a* balance of power, in the political sense — comes into play whenever a group of states, some members of which are approximately equal in strength, are compelled to exist within comparatively fixed limits and to compete with each other for influence and power. What, in such case, is sure to happen? Inevitably the emergence of one of these states into a position of superiority, at one time through a policy of open aggression, at another, through the rise of a leader of genius, or it may be from the mere changes of time and chance. The tradition of hegemony has persisted in every age and is ever threatening the integrity of individual states. What are the possible remedies? Manifestly, only two — a permanent league of nations or temporary alliances against the aggressor. There is no *tertium quid*. It would

be futile to inquire whether such a league might have been possible in the past. Its failure to appear is a question of fact. There remains, as the sole available remedy, the tendency to unite, under pressure, against the disturber of the *status quo*. This is the operation of the balance of power, long ago defined as having for its aim "the mutual preservation of states, so that the more powerful might not oppress the less powerful and that each should keep what rightly belongs to him."¹ At best it is crude and inefficient, often achieving its purposes only through the waste of war, and many times invoked to cloak selfish designs. But hitherto there has been no alternative and, should the League fail, the principle of the balance would keep the field. At the risk of repetition, the following comment by Mountague Bernard may help to define the concept more accurately: —

The idea of a Balance of Power is said to have been first worked out by the scheming Italian politicians of the Middle Ages; but something like it has probably existed wherever men felt insecure in the presence of superior strength, and the only feasible substitute for a police lay in voluntary combinations for self-defense. "Whoever," says Hume, "will read Demosthenes's oration for the Megalopolitans may see the utmost refinements on this principle which ever entered the head of a Venetian or English speculatist." . . . I do not suppose that the instinct of self-preservation which suggested it will ever wear out; that nations will ever be content, if they can help it, to feel that they exist upon sufferance; or that statesmen, European or American, will learn to see with indifference conquests and annexations which may affect the interests under their charge. . . . Declamations for and against the doctrine are, in my view, alike unprofitable. Our precautions will diminish, and will only diminish,

¹ This was the announced purpose of the League of Venice, formed in 1495 against the aggressions of Charles VIII in Italy. See Creighton, *Cardinal Wolsey*, pp. 6-7.

as we grow less afraid of one another, and cease to mistake imaginary interests for real ones.¹

The European balance of power, but recently shattered, was, from one point of view, simplicity itself. Although its permutations through the three or four centuries of its history have been almost infinite, the underlying facts and the operative principle have been clear enough. Two great peoples, hereditary rivals, stand opposed to each other across the Rhine. Now one, now the other, becomes a menace to its rival and its neighbors. Detached from the Continent is an island-state, fortunately able to remain in large measure outside the "entangling alliances" of Europe, but always compelled to intervene in its general wars. This it does, not through superior moral insight or political foresight, but from the instinctive motive of self-preservation. By so intervening, however, it restores the equilibrium and saves Europe.

In the War of 1914 it was not otherwise. Great Britain intervened on the Continent, though not bound by alliance to do so, because the presence of Germany in Belgium *ipso facto* threatened her national existence. But on this occasion British intervention was not sufficient to turn the scale. In 1917, the aggressor might possibly have triumphed and the balance remained unadjusted, when, in the nick of time, the United States came in to correct it. Her vital interests were drawn into question, and—as Great Britain had done before her—she had to cross the seas to make those interests safe. In one sense she fought "to make the world safe for democracy." That, however, was but the ancillary purpose; the primary object

¹ Mountague Bernard, *Lectures on Diplomacy*, pp. 97-101. Compare M. Clemenceau's defense of the doctrine of the balance of power in his address to the Chamber of Deputies on December 29, 1918. See *New York Times*, January 1, 1919.

was the security of her sovereign rights. Democracy would have been more easily saved — and more of it saved — in 1914, and at infinitely less cost; but the tradition of isolation had obscured the change that had taken place. For the old European balance had been gradually transforming to a world balance. The Anglo-Japanese alliance of 1902 had ushered in a diplomatic revolution. Great Britain had, perforce, to depart from her “splendid isolation,” and it was only a matter of time when the alignments of world politics would draw the United States within their sphere. Willy-nilly, a state cannot fight against the future. It may insist on freedom from alliances, but it cannot to-day remain diplomatically isolated, nor can it evade the obligations which a new world order will continue to impose.

The Policy of the Future.—And this brings us to the conclusion of the whole matter. In the fine phrase of General Smuts, “the tents have been struck, and the great caravan of humanity is once more on the march.” Decisions must be made by nations, by all nations, which strike deep down to their very foundations. To the American people three choices present themselves: (1) participation in a league of nations, with its “unpathed waters” and ardent hopes; (2) the alliances, more or less permanent, of a world balance of power; and (3) a policy of isolation. The last, however, is a choice more specious than real. The United States can never return to its former isolation. At best, it can be only a qualified isolation, like that of Great Britain with reference to Continental Europe. For, relative to the world balance, America is now an island — not, however, as Great Britain, neighbor to *one* continent, but interposed between *two*. This of itself adds mightily to its responsibilities and, if the decision is made to meet these responsibilities under

the traditional isolation, there is but one issue — increased armaments on a colossal scale. True, a policy of *laissez-faire* might appear to suffice for the moment, but when world interests clash, it is liable to bring upon itself the strictures which Wolsey's biographer has applied to British isolation. "When a crisis comes," says Bishop Creighton, "England has ever been slow to recognize its inevitableness; and her habit of hoping against hope for peace has placed her in an undignified attitude for a time, has drawn upon her reproaches for duplicity, and has involved her in war against her will."

To sum up, we have seen that the United States has had, from the first, a "natural" policy — isolation; that, fortunately, it has been possible to follow it for a century and a half with remarkable uniformity; that flexibility, however, to meet new conditions is entirely consistent with its early formulation and practice; that the physical and political isolation of the nineteenth century has passed away with the diplomatic revolution of the twentieth; and that, if the United States would persevere in her freedom from commitments of any kind, it must be at the cost of increased naval and military establishments. To escape these, she may choose league or alliance, but which of the two will bring with it stronger sanctions or fewer regrets, it is outside the scope of this chapter to inquire.

CHAPTER XVI

THE MONROE DOCTRINE AND THE LEAGUE OF NATIONS

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ARTICLE XXI of the Covenant of the League of Nations reads as follows: "Nothing in this covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration or regional understandings like the Monroe Doctrine for securing the maintenance of peace."

Thus the peculiar doctrine of America's foreign policy has been embodied in this most solemn covenant, and at last recognized formally and explicitly by European states. What Bismarck described as "an international impertinence" becomes one of the stones on which it is hoped to build international peace.

In view of the insistent demand for such recognition, it is important to define, not merely what the doctrine was when President Monroe and John Quincy Adams formulated it, but how it has developed in the century since it was promulgated. In short, what does the United States mean by the phrase "The Monroe Doctrine" which the Allies now accept? And — of equal importance — have the Allies and the United States a common understanding as to the significance and implication of the doctrine? Finally, how does the acceptance and recognition of the doctrine, excepting as it does the Western Hemisphere from the complete operation of the League, square with the principles set forth in other sections of the Covenant?

Background of the Doctrine. — The significance of the Monroe Doctrine can be fully appreciated only when its background is understood; for in this background are principles older than the doctrine itself, principles which produced the doctrine and which seem to be operative to this day. The ideal of the foreign policy of the United States has commonly been expressed as one of isolation. Thus Washington spoke a solemn warning against permanent alliances, and Jefferson urged "honest friendship with all nations, entangling alliances with none." But it may well be noted that Washington explicitly recognized the utility and advantage of temporary alliances, and Jefferson wrote, that from the moment France took possession of New Orleans, "we must marry ourselves to the British fleet and nation."

Even while isolation expressed our ideal of foreign policy, the actual course of foreign relations has been far different. From the very foundation of the colonies America has been involved in European affairs; its politics have reflected European politics, and its wars have followed European wars. Indeed, the Seven Years' War began with the collision of French and English frontiersmen in the backwoods of America. The achievement of the independence of the United States was aided, if not made possible, by European jealousy, and the French fleet made Yorktown the final victory of the Revolution. The trade and commerce of the United States was desired by both France and Great Britain, and only the weakness of the Articles of Confederation prevented favorable treaties. It must be remembered that the greater part of the territory now occupied by the United States was held by European states whose titles have been extinguished by purchase, war, or negotiation; and the acquisition of Louisiana was not unconnected with the failure of Napoleon's plans. Finally, contradic-

tory as it may seem, the very remoteness of America has tended to bring the United States into European quarrels. Being uninterested in dynastic struggles, the United States soon came to seek the position of a consistent neutral. To define its position, and to defend the neutral rights it sought to enjoy, involved the United States in a long series of diplomatic negotiations, and finally in war. Thus, although the background of the Monroe Doctrine may have been the ideal of isolation, necessity forced the United States, in order to maintain its rights and to secure its legitimate development, to be not unmindful of European affairs.

Origin. — The occasion of the Monroe Doctrine was the threat of the Holy Alliance to assist Spain to recover her revolted colonies in South America. From being an alliance taking for its "sole guide the precepts of that Holy Religion, namely, the precepts of Justice, Christian Charity and Peace," the Holy Alliance, composed of Russia, Prussia, and Austria, had become the means of suppressing the democratic revolutions in Portugal, Spain, and Italy. Great Britain, who had at first concurred in the principles of the alliance, had later emphatically expressed her disapproval of the way in which these principles were applied in Naples; and while not objecting to any diplomatic arrangements between Spain and her colonies, she felt that their recovery by Spain was hopeless. Great Britain was also unwilling to see the colonies transferred to any other power. These sentiments were transmitted through diplomatic channels to the United States.

Not unconnected with the question of the Spanish colonies was Russia's attempt to extend her jurisdiction in the Northwest. The opportunity was presented to answer the inquiries of Great Britain in favor of a joint declaration against the plans of the Holy Alliance, and at the same

time to make clear to Russia the position of the United States concerning the colonization of the Northwest. Monroe, Jefferson, and Madison favored a joint declaration with Great Britain. Adams, Secretary of State, however, pointed out that a unilateral declaration, with Great Britain's assent, would accomplish the same results and leave the United States free in its former position. Fortunately Adams prevailed, and the United States was able to make a declaration which was in harmony with its traditional policy. In his annual message to Congress on December 2, 1823, President Monroe announced the doctrine, which contains, not so much a declaration of new principles, as a reassertion of principles which the United States had claimed, and still does claim, as the foundation of its foreign policy.

Analysis.—The first and most fundamental of these principles is the doctrine of the two spheres. "In the wars of the European powers in matters relating to themselves we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded or seriously menaced that we resent injuries or make preparation for our defense. With the movements in this hemisphere we are, of necessity, more immediately connected, and by causes which must be obvious to all enlightened and impartial observers." This was but a statement of the principles held by Washington and Jefferson, and the attempted policy of the government since its foundation. It rests upon the geographical division of the two hemispheres.

A second dictum closed the American continents to further colonization. This was found in the answer to Russia's claims, and is briefly and tersely stated in these words: "the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United

States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers."

This did not mean that colonies already existing should be disturbed; indeed Monroe was explicit upon that point. Nor did it prevent combinations or disintegrations of the existing American states. This process began at once and continued throughout the nineteenth century. Finally, while not a self-denying ordinance to limit the expansion of the United States, it was a statement of the belief that for the safety of the United States no further colonization should be allowed in America. It was based upon self-interest and self-protection rather than upon idealistic grounds.

The doctrine of mutual non-intervention is in the nature of a *quid pro quo*, and is based upon the doctrine of the two spheres. Although applied especially to Spain and the Holy Alliance, it has been extended to cover intervention from other sources. In its enunciation, however, it was applied rather strictly to the colonies which had successfully revolted. But "with the Governments who have declared their independence, and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power in any other light than as the manifestation of an unfriendly disposition towards the United States." From a statement thus limited the doctrine of non-intervention has been extended to prevent punitive actions which the United States considers unwise from its point of view. Thus the United States has become in a certain sense the guardian and sponsor for the good behavior of the Americas.

Finally a protest was lodged against the political system of the Holy Alliance. "The political system of the allied powers is essentially different . . . from that of America. . . . It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness; nor can any one believe that our Southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition in any form with indifference."

If this meant the use of the Holy Alliance or any combination of powers against American states, it remains a principle of the policy of the United States to this day. But, on the other hand, if it is aimed solely against monarchical institutions, as such, it has lost much of its meaning.

Characteristics. — The Monroe Doctrine was formulated primarily for the benefit and security of the interests of the United States, and secondarily for the benefit of the other American states. European powers were warned against acquisition of territory and influence at the expense of American states, but the United States has greatly increased its own territory. Thus, Mexico was compelled by war to surrender California; Spain, Porto Rico; Colombia, Panama; while the purchase of the Danish West Indies is the latest example of peaceful expansion. Moreover, although the extension of the political system of Europe is forbidden, the United States has not allowed the independent states in America to follow their own free choice in determining their governments. Thus President Wilson refused to recognize the Huerta government in Mexico and finally eliminated Huerta. In like manner, Presidents Roosevelt, Taft, and Wilson have determined the governments of Santo Domingo, Haiti, and Nicaragua, supported,

not by the consent of the governed, but by the power of the United States. As the United States has applied the doctrine, it means the protection of the interests of the United States, and what the United States considers the interests of the Americas.

A second peculiar characteristic of the doctrine is found in the fact that, although considered by the United States as a principle of international law, it was not so recognized or accepted by Europe. With more suavity than Bismarck, but also with more accuracy, Lord Salisbury thus disposed of the contention that the Monroe Doctrine was international law: "It must always be mentioned with respect, on account of the distinguished statesman to whom it is due, and the great nation who have generally adopted it. But international law is founded on the general consent of nations; and no statesman, however eminent, and no nation, however powerful, are competent to insert into the code of international law a novel principle which was never recognized before, and which has not since been accepted by the Government of any other country."

Yet, in spite of the truth of this statement, European nations have acted both as if it were international law, and as if it were generally accepted. As Professor Latané points out, this anomaly was brought about, not by the inherent sanctity of the doctrine, nor even by the potential military and naval strength of the United States, which until recently might have been underestimated by the nations abroad, but by European situations. The success of almost every assertion of the doctrine has been, if not conditioned, at least powerfully aided, by shifts and changes in the balance of power in Europe. Thus the tardy compliance of France with Seward's ultimatum was not wholly unconnected with Bismarck's determination to force war with Austria. So Great Britain's acceptance of the principle of

arbitration in the Venezuela dispute was perhaps hastened by the Kaiser's telegram of congratulation to President Kruger. And finally, Germany's change of front on the Venezuelan question in 1902 was due in part to the unpromising attitude of the United States, and in part to the withdrawal of her partner, Great Britain.

These instances are presented, not to belittle the power of the United States, but to make clear that, in the maintenance of its most cherished policy, the United States has been aided, not by isolation, but by the interrelation of European and American questions. The balance of power, which Canning claimed was redressed in 1823 by calling the New World into existence, has more than once helped the United States to maintain its peculiar doctrine.

Assertions of the Monroe Doctrine. — Whatever the Monroe Doctrine may have meant in 1823, and however variously its principles may at different times have been interpreted, historically its fundamental principles have been held to prohibit the acquisition of territory by European powers by conquest, cession, or purchase; while similar prohibitions have been raised against the exercise of any control over the territory of American states through the settlement of boundary disputes or the collections of claims.

The only serious attempt on the part of European states to acquire territory by conquest was made by France in Mexico between 1861 and 1866. Beginning as a joint attempt to redress grievances and collect claims on the part of Great Britain, France, and Spain, France persisted after the Mexican authorities had offered terms and her allies had withdrawn. Indeed, Napoleon III acknowledged that it was his purpose "to establish bounds to the extension of the United States toward the South, and to prevent her from controlling the commerce of the Gulf of Mexico."

During the Civil War the United States was unable to make effective opposition, although Seward protested every move; but in 1865 about 100,000 Union troops were sent to the Texan border, and Seward notified the French government that "the presence and operations of a French army in Mexico, and its maintenance of an authority there, resting upon force and not the free will of the people of Mexico, is a cause of serious concern to the United States. . . . They still regard the effort to establish permanently a foreign and imperial Government in Mexico as disallowable and impracticable." Thus the most open attempt at foreign conquest in this hemisphere was prevented by an appeal to the principle of the doctrine, although not to the doctrine by name.

In the administration of President Grant the prohibition of the transfer of colonial possessions in this hemisphere from one European nation to another was several times asserted. Thus, in his first message, President Grant laid down the principles which would govern his action concerning Cuba, in these words: "The United States have no disposition to interfere with the existing relations of Spain to her colonial possessions on this continent. . . . These dependencies are no longer regarded as subject to transfer from one European power to another. When the present relation of colonies ceases, they are to become independent powers, exercising the right of choice and of self-control in the determination of their future condition and relations with other powers." This position was not novel with Grant, but it was most frequently repeated in his administration.

A more recent development of the same prohibition is seen in the "Lodge Resolution" of August 2, 1912, which asserted "That when any harbor or other place in the American continents is so situated that the occupation

thereof for naval or military purposes might threaten the communications or the safety of the United States, the Government of the United States could not see without grave concern the possession of such harbor or other place by any corporation or association which has such a relation to another Government, not American, as to give that Government practical power or control for naval or military purposes." This was a decided extension of previous limitations, in that it was aimed to prevent, not merely the complete absorption of an American state, but the cession of any part of its territory, either to another state or to a semi-public corporation controlled by a state. As Senator Lodge well said, "The resolution is merely a statement of policy, allied to the Monroe Doctrine, of course, but not necessarily dependent upon it or growing out of it."

Boundary disputes were brought within the purview of the doctrine by President Cleveland, in 1895. In his celebrated Venezuela message, he said: "If a European power by an extension of its boundaries takes possession of the territory of one of our neighboring Republics against its will and in derogation of its rights, it is difficult to see why to that extent such European power does not thereby attempt to extend its system of government to that portion of this continent which is thus taken. This is the precise action which President Monroe declared to be 'dangerous to our peace and safety.' " Without considering whether boundary disputes figured in the minds of Monroe and Adams, the demand of Cleveland for arbitration was heeded by Great Britain and a precedent established.

Yet another application of the principles of the Monroe Doctrine is found in the assertion that foreign nations are prohibited from acquiring territory even temporarily for the purpose of collecting their debts and claims. The pro-

test against such action by Germany has been mentioned, but the application of the doctrine and the dilemma resulting from it were well stated by President Roosevelt in his message of December 5, 1905: ". . . we must make it evident that we do not intend to permit the Monroe Doctrine to be used by any nation on this Continent as a shield to protect it from the consequences of its own misdeeds against foreign nations. . . . On the one hand, this country would certainly decline to go to war to prevent a foreign government from collecting a just debt; on the other hand, it is very inadvisable to permit any foreign power to take possession, even temporarily, of the custom houses of an American Republic in order to enforce the payment of its obligations; for such temporary occupation might turn into a permanent occupation. The only escape from these alternatives may at any time be that we must ourselves undertake to bring about some arrangement by which so much as possible of a just obligation shall be paid."

Hence, as regards the Western Hemisphere, the doctrine reaches its logical conclusion. The United States will not tolerate European intervention, and thus of necessity becomes the guardian and even the guarantor of the behavior of the Western republics. This was clearly recognized by President Roosevelt, when he said: "Chronic wrongdoing, or an impotence which results in a general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some civilized nation, and in the Western Hemisphere the adherence of the United States to the Monroe Doctrine may force the United States, however reluctantly, in flagrant cases of such wrongdoing or impotence, to the exercise of an international police power."

Since then this policy has been invoked in at least five instances; Cuba, Santo Domingo, Panama, Nicaragua,

and Haiti are no longer sovereign, and are controlled more or less directly by the United States. Some, like Santo Domingo, are suffering from their own misdoing or impotence, and under the tutelage of the United States are slowly making reparation to foreign powers; others, like Cuba and Panama, are so closely related to the development of the interests of the United States that the United States feels justified in preventing misgovernment and inefficiency. But in all cases the final and ultimate authority is with the United States.

America's Observance of the Principle of Non-Intervention. — While European intervention of any sort has been eliminated from the Western Hemisphere, has the United States continued to observe the principles enunciated by Washington, and refrained from implicating herself in European affairs? In short, in return for the non-intervention of European powers in America, has the United States refrained from intervention in European affairs? Has the doctrine of the two spheres of influence been scrupulously regarded? As a matter of fact, such an absolute division never existed, and, increasingly, commerce and communication forced intercourse and joint action. But since 1898 the United States has become a world power in the European sense. Her possessions are no longer confined to one hemisphere. Her intervention in European affairs was begun by way of the Pacific and Asia. The Philippines, Samoa, China with the "Open Door" and the Boxer Rebellion, required her intervention in the policies of European governments in a way little contemplated by Washington and Monroe. In more purely European affairs, too, the United States has exercised important influence. For, if we may believe M. Tardieu, the chronicler of the Algerias Conference, the Kaiser sent several cablegrams to President Roosevelt urging him to modify the instructions

of the American delegates; and it is asserted that the United States had a part in righting temporarily the balance in Europe, which Germany sought to alter. Surely the part played by the United States in the recent war and the activities of her delegates at the Peace Conference show little hesitancy in interfering in purely European affairs.

Thus the doctrine, always one-sided as regards the Western Hemisphere, has become equally so as regards Europe. European intervention will not be tolerated in the Americas, but the United States is at liberty to intervene in Europe. It is but an extension of the principles embodied in the original Monroe message, although directly contrary to its express declaration. It means that the United States will take such steps as seem necessary to protect her interests, whether in the Americas or the Old World. In 1823 only affairs in the Western Hemisphere seemed to concern us vitally; but, as 1914 showed, a murder in a petty Balkan state was sufficient to start the train of events which forced the United States into war. Equally with a just settlement of conditions in South America, the United States is concerned with the settlement of European and Asiatic conditions. Aggression in Europe or Asia might again involve the United States in war as much as European aggression in South America might have threatened her welfare in 1823.

The Monroe Doctrine and the League of Nations. — President Wilson in his address to Congress, January 22, 1917, in proposing what he then called a "League for Peace," held that he was proposing "that the nations should with one accord adopt the doctrine of President Monroe as the doctrine of the world: that no nation should seek to extend its polity over any other nation or people, but that every people should be left free to determine its own polity, its own way of development, unhindered, unthreatened, unafraid, the little along with the

great and powerful." This idea is found in Article X of the Covenant of the League which reads: "The members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all members of the League."

This was the true league idea, but not, as has been shown, the principle of the Monroe Doctrine. It was the Monroe Doctrine as the United States enforced it against European aggression in the Western Hemisphere, but not the doctrine by which the United States governed its own conduct. As President Lowell of Harvard University said in his debate with Senator Lodge, "Some Americans, while professing a faith in the right of all peoples to independence and self-government, are really imperialistic at heart. They believe in the right and manifest destiny of the United States to expand by overruling its weaker neighbors." It was apparently to conciliate critics of the sort described by President Lowell that Article X was supplemented by Article XXI, and the Monroe Doctrine recognized by name.

But what is the League to understand by the Monroe Doctrine? The doctrine put forward by Monroe, that doctrine which would guarantee peace by preventing European aggression, or the doctrine as recently asserted, which would seem to give sanction to the imperialistic aims of the United States?

If the imperialistic interpretation is adopted, while American pride may be satisfied, and American apprehensions temporarily lulled, the idea of the League of Nations guaranteeing permanent peace is weakened. Moreover, the exception granted to the Monroe Doctrine is shared with other regional agreements for securing the maintenance of peace. The door is opened for the old idea of spheres of influence, which, especially in China and Central Africa, may

lead to serious consequences. If the League means a joint guaranty of world peace, whole areas may be withdrawn from its jurisdiction if the Monroe Doctrine and other similar regional agreements are interpreted in the imperialistic sense.

On the other hand, if the United States is willing to sacrifice the imperialism which has characterized some of its appeals to the doctrine, and to return to the original idea of mutual non-intervention, in so far as that will be possible under a league of nations, a different condition will result. Should this interpretation prevail, it might be possible to consider the Monroe Doctrine as applying a principle somewhat analogous to, but by no means identical with, that expressed in the doctrine of mandatories. The regional agreements for peace, if fairly formed and unselfishly applied, may become instruments by which the League shall guarantee world peace. But this presupposes a frank acceptance of the principles expressed in Article X — a respect for the territorial integrity and independence of states. Should this conception prevail, the recognition of the Monroe Doctrine would be a triumph for the United States and a powerful assistance for the League of Nations.

APPENDICES

APPENDICES

I

THE ARTICLES OF THE FUNDAMENTAL TREATY FOR PRESERVING THE PEACE OF EUROPE

As proposed by the ABBÉ SAINT-PIERRE (1713)

ARTICLE I

THERE shall be henceforth among the Sovereigns who sign these five articles, a permanent Alliance:

1. In order to obtain for themselves reciprocally, throughout all future centuries, complete security against the great evils of foreign war;

2. In order to obtain for themselves reciprocally, throughout all future centuries, complete security against the great evils of civil war;

3. In order to obtain for themselves reciprocally, throughout all future centuries, complete security of possession for the whole of their respective states;

4. In order to obtain for themselves reciprocally, in all periods of weakness, much greater security for the preservation of their Persons and their family in possession of the sovereignty, according to the order established in each nation;

5. In order to obtain for themselves reciprocally a very considerable diminution of their military expenditure, while increasing at the same time their security;

6. In order to obtain for themselves reciprocally a very considerable increase of the annual profit which will be produced by the continuity and security of commerce;

7. In order to obtain for themselves reciprocally, with much greater ease and in less time, internal development or improvement of their states through the perfecting of laws, regulations, etc., and through the full utilization of many excellent establishments;

8. In order to obtain for themselves reciprocally complete security in composing more promptly, without risks and without expense, their future differences;

9. In order to obtain for themselves reciprocally complete security and exact execution of their future treaties and of their reciprocal promises.

And to facilitate the formation of this Alliance, they are agreed to take as a fundamental point *the actual possession and execution of the last*

treaties; and they reciprocally promise, each one guaranteeing the others, that every Sovereign who will sign this Fundamental Treaty shall always have guaranteed to him and his house all the territory which he *actually* possesses.

They are agreed that the latest treaties, those since and including the Treaty of Münster [Westphalia], shall be executed, and that, for the common security of the states of Europe, the renunciations made in the Treaty of Utrecht in order to prevent the crowns of France and of Spain from ever being united on one and the same head, shall be executed according to their form and tenor.

And in order to render the Great Alliance more solid, by rendering it more numerous and more powerful, the Great Allies are convinced that all Christian Sovereigns should be invited to join it by attaching their signature to this Fundamental Treaty.

ARTICLE II

Each Ally shall contribute, in proportion to his actual revenues and to the charges of his state, to the security and joint expenses of the Great Alliance.

This contribution shall be regulated monthly by the plenipotentiaries of the Great Allies, in the place of their Permanent Assembly, a majority being necessary to propose, and a three-fourths vote, to ratify.

ARTICLE III

The Great Allies, in order to settle between them their present and future differences, have renounced and do renounce forever, both for themselves and for their successors, any resort to arms; and they are agreed to substitute for it always resort to conciliation by means of mediation on the part of the other Great Allies at the place of the General Assembly. And in case this mediation is unsuccessful, they are agreed to defer to the judgment rendered by the Plenipotentiaries of the other Allies permanently assembled, this judgment to be rendered final by majority vote five years after the provisional judgment.

ARTICLE IV

If any one of the Great Allies should refuse to execute the judgments and regulations of the Great Alliance, or should negotiate conflicting treaties, or should make preparations for war, the Great Alliance shall arm and act against him offensively, until such time as he shall have executed said judgments or regulations, or given guaranties for repairing the damage done by his hostilities and for reimbursing the war expenses as reckoned by Commissioners of the Great Alliance.

ARTICLE V

The Allies are agreed that the Plenipotentiaries, by a majority of votes on final action, shall make in their Permanent Assembly all rules and regulations which shall be deemed necessary and important, in order to obtain for the Great Alliance a larger measure of stability and security, and all other possible advantages; but none of these five Fundamental Articles can be changed without the unanimous consent of all the Allies. (*Translated from "Abrégé du projet de paix perpétuelle."* Rotterdam, Beman, 1729.)

II

PERPETUAL PEACE (1795)

(*Zum Ewigen Frieden*)

BY IMMANUEL KANT

FIRST SECTION

Containing the Preliminary Articles of Perpetual Peace Between States.

1. *No treaty of peace shall be regarded as valid, if made with the secret reservation of material for a future war.*

For then it would be a mere truce, a mere suspension of hostilities, not peace. A peace signifies the end of all hostilities, and to attach to it the epithet "eternal" is not only a verbal pleonasm, but matter of suspicion. The causes of a future war existing, although perhaps not yet known to the high contracting parties themselves, are entirely annihilated by the conclusion of peace, however acutely they may be ferreted out of documents in the public archives. There may be a mental reservation of old claims, to be thought out at a future time, which are, none of them, mentioned at this stage, because both parties are too much exhausted to continue the war, while the evil intention remains of using the first favorable opportunity for further hostilities. Diplomacy of this kind only Jesuitical casuistry can justify: it is beneath the dignity of a ruler, just as acquiescence in such processes of reasoning is beneath the dignity of his minister, if one judges the facts as they really are.

If, however, according to enlightened ideas of political wisdom, the true glory of a state lies in the uninterrupted development of its power by every possible means, this judgment must certainly strike one as scholastic and pedantic.

2. *No state having an independent existence—whether it be great or small—shall be acquired by another through inheritance, exchange, purchase or donation.*

For a state is not a property (*patrimonium*), as may be the ground on which its people are settled. It is a society of human beings whom no one but itself has the right to rule and to dispose of. Like the trunk of a tree, it has its own roots, and to graft it on to another state is to do away with its existence as a moral person, and to make of it a thing. Hence it is in contradiction to the idea of the original contract, without which no right over a people is thinkable. Everyone knows to what danger the bias in favor of these modes of acquisition has brought Europe (in other parts of the world it has never been known). The custom of marriage between states, as if they were individuals, has survived even up to the most recent times, and is regarded partly as a new kind of industry by which ascendancy may be acquired through family alliances, without any expenditure of strength; partly as a device for territorial expansion. Moreover, the hiring out of the troops of one state to another, to fight against an enemy not at war with their native country, is to be reckoned in this connection; for the subjects are in this way used and abused at will as personal property.

3. *Standing armies (miles perpetuus) shall be abolished in course of time.*

For they are always threatening other states with war by appearing to be in constant readiness to fight. They incite the various states to outrival one another in the number of their soldiers, and to this number no limit can be set. Now since, owing to the sums devoted to this purpose, peace at last becomes even more oppressive than a short war, these standing armies are themselves the cause of wars of aggression, undertaken in order to get rid of this burden. To which we must add that the practice of hiring men to kill or to be killed seems to imply a use of them as mere machines and instruments in the hand of another (namely, the state) which cannot easily be reconciled with the right of humanity in our own person. The matter stands quite differently in the case of voluntary periodical military exercise on the part of citizens of the state, who thereby seek to secure themselves and their country against attack from without.

The accumulation of treasure in a state would in the same way be regarded by other states as a menace of war, and might compel them to anticipate this by striking the first blow. For of the three forces, — the power of arms, the power of alliance, and the power of money, — the last might well become the most reliable instrument of war, did not the difficulty of ascertaining the amount stand in the way.

4. *No national debts shall be contracted in connection with the external affairs of the state.*

This sort of help is above suspicion, where assistance is sought outside or within the state, on behalf of the economic administration of the country (for instance, the improvement of the roads, the settlement and support of new colonies, the establishment of granaries to provide against

seasons of scarcity, and so on). But, as a common weapon used by the Powers against one another, a credit system under which debts go on indefinitely increasing, and are yet always assured against immediate claims (because all the creditors do not put in their claim at once), is a dangerous money power. This ingenious invention of a commercial people in the present century is, in other words, a treasure for the carrying on of war which may exceed the treasures of all the other states taken together, and can only be exhausted by a threatening deficiency in the taxes — an event, however, which will long be kept off by the very briskness of commerce resulting from the reaction of this system on industry and trade. The ease, then, with which war may be waged, coupled with the inclination of rulers toward it, — an inclination which seems to be implanted in human nature, — is a great obstacle in the way of perpetual peace. The prohibition of this system must be laid down as a preliminary article of perpetual peace, all the more necessarily because the final inevitable bankruptcy of the state in question must involve in the loss many who are innocent; and this would be a public injury to these states. Therefore, other nations are at least justified in uniting themselves against such an one and its pretensions.

5. *No state shall violently interfere with the constitution and administration of another.*

For what can justify it in so doing? The scandal which is here presented to the subjects of another state? The erring state can much more serve as a warning by exemplifying the great evils which a nation draws down on itself through its own lawlessness. Moreover, the bad example which one free person gives another (as *scandalum acceptum*) does no injury to the latter. In this connection, it is true, we cannot count the case of a state which has become split up through internal corruption into two parts, each of them representing by itself an individual state which lays claim to the whole. Here the yielding of assistance to one faction could not be reckoned as interference on the part of a foreign state with the constitution of another, for here anarchy prevails. So long, however, as the inner strife has not reached this stage, the interference of other powers would be a violation of the rights of an independent nation which is only struggling with internal disease. It would therefore itself cause a scandal, and make the autonomy of all states insecure.

6. *No state at war with another shall countenance such modes of hostility as would make mutual confidence impossible in a subsequent state of peace: such are the employment of assassins (percussores) or of poisoners (venefici), breaches of capitulation, the instigating and making use of treachery (perduellio) in the hostile state.*

These are dishonorable stratagems. For some kind of confidence in the disposition of the enemy must exist even in the midst of war, as

otherwise peace could not be concluded, and the hostilities would pass into a war of extermination (*bellum internecinum*). War, however, is only our wretched expedient of asserting a right by force, an expedient adopted in the state of nature, where no court of justice exists which could settle the matter in dispute. In circumstances like these, neither of the two parties can be called an unjust enemy, because this form of speech presupposes a legal decision: the issue of the conflict — just as in the case of the so-called judgments of God — decides on which side right is. Between states, however, no punitive war (*bellum punitivum*) is thinkable, because between them a relation of superior and inferior does not exist. Whence it follows that a war of extermination, where the process of annihilation would strike both parties at once and all right as well, would bring about perpetual peace only in the great graveyard of the human race. Such a war then, and therefore also the use of all means which lead to it, must be absolutely forbidden. That the methods just mentioned do inevitably lead to this result is obvious from the fact that these infernal arts, already vile in themselves, on coming into use, are not long confined to the sphere of war. Take, for example, the use of spies (*uti exploratoribus*). Here only the dishonesty of others is made use of; but vices such as these, when once encouraged, cannot in the nature of things be stamped out and would be carried over into the state of peace, where their presence would be utterly destructive of the purpose of that state.

Although the laws stated are, objectively regarded (that is, in so far as they affect the action of rulers), purely prohibitive laws (*leges prohibitiveæ*), some of them (*leges strictæ*) are strictly valid without regard to circumstances and urgently require to be enforced. Such are numbers 1, 5, 6. Others, again (like numbers 2, 3, 4), although not indeed exceptions to the maxims of law, yet in respect of the practical application of these maxims allow subjectively of a certain latitude to suit particular circumstances. The enforcement of these *leges latæ* may be legitimately put off, so long as we do not lose sight of the ends at which they aim. This purpose of reform does not permit of the deferment of an act of restitution (as, for example, the restoration to certain states of freedom of which they have been deprived in the manner described in Article 2) to an infinitely distant date — as Augustus used to say, to the “Greek Kalends,” a day that will never come. This would be to sanction non-restitution. Delay is permitted only with the intention that restitution should not be made too precipitately, and so defeat the purpose we have in view. For the prohibition refers here only to the *mode of acquisition* which is to be no longer valid, and not to the *fact of possession* which, although indeed it has not the necessary title of right, yet at the time of so-called acquisition was held legal by all states, in accordance with the public opinion of the time.

SECOND SECTION

Containing the Definitive Articles of a Perpetual Peace between States.

A state of peace among men who live side by side is not the natural state (*status naturalis*), which is rather to be described as a state of war: that is to say, although there is not perhaps always actual open hostility, yet there is a constant threatening that an outbreak may occur. Thus the state of peace must be *established*. For the mere cessation of hostilities is no guaranty of continued peaceful relations; and unless this guaranty is given by every individual to his neighbor, — which can be done only in a state of society regulated by law, — one man is at liberty to challenge another and treat him as an enemy.

1. *The civil constitution of each state shall be republican.*

The only constitution which has its origin in the idea of the original contract, upon which the lawful legislation of every nation must be based, is the republican. It is a constitution, in the first place, founded in accordance with the principle of the freedom of the members of society as human beings; secondly, in accordance with the principle of the dependence of all, as subjects, on a common legislation; and, thirdly, in accordance with the law of the equality of the members as citizens. It is then, looking at the question of right, the only constitution whose fundamental principles lie at the basis of every form of civil constitution. And the only question for us now is, whether it is also the one constitution which can lead to perpetual peace.

Now, the republican constitution, apart from the soundness of its origin, since it arose from the pure source of the concept of right, has also the prospect of attaining the desired result, namely, perpetual peace. And the reason is this. If, as must be so under this constitution, the consent of the subjects is required to determine whether there shall be war or not, nothing is more natural than that they should weigh the matter well, before undertaking such a bad business. For in decreeing war, they would of necessity be resolving to bring down the miseries of war upon their country. This implies: they must fight themselves; they must hand over the costs of the war out of their own property; they must do their poor best to make good the devastation which it leaves behind; and finally, as a crowning ill, they have to accept a burden of debt which will embitter even peace itself, and which they can never pay off on account of the new wars which are always impending. On the other hand, in a government where the subject is not a citizen holding a vote (that is, in a constitution which is not republican), the plunging into war is the least serious thing in the world. For the ruler is not a citizen, but the owner of the state, and does not lose a whit by the war, while he goes on enjoying the delights of his table or sport, or of his pleasure palaces and gala days. He can therefore decide on war for the most trifling

reasons, as if it were a kind of pleasure party. Any justification of it that is necessary for the sake of decency he can leave without concern to the diplomatic corps, who are always only too ready with their services.

* * * * *

2. The law of nations shall be founded on a federation of free states.

Nations, as states, may be judged like individuals who, living in the natural state of society — that is to say, uncontrolled by external law — injure one another through their very proximity. Every state, for the sake of its own security, may — and ought to — demand that its neighbor should submit itself to conditions similar to those of the civil society where the right of every individual is guaranteed. This would give rise to a federation of nations which, however, would not have to be a state of nations. That would involve a contradiction. For the term “state” implies the relation of one who rules to those who obey — that is to say, of lawgiver to the subject people; and many nations in one state would constitute only one nation, which contradicts our hypothesis, since here we have to consider the right of one nation against another, in so far as they are so many separate states and are not to be fused into one.

The attachment of savages to their lawless liberty, the fact that they would rather be at hopeless variance with one another than submit themselves to a legal authority constituted by themselves, that they therefore prefer their senseless freedom to a reason-governed liberty, is regarded by us with profound contempt as barbarism and uncivilization and the brutal degradation of humanity. So one would think that civilized races, each formed into a state by itself, must come out of such an abandoned condition as soon as they possibly can. On the contrary, however, every state thinks rather that its majesty (the “majesty” of a people is an absurd expression) lies just in the very fact that it is subject to no external legal authority; and the glory of the ruler consists in this, that, without his being required to expose himself to danger, thousands stand at his command, ready to let themselves be sacrificed for a matter of no concern to them. The difference between the savages of Europe and those of America lies chiefly in this, that, while many tribes of the latter have been entirely devoured by their enemies, Europeans know a better way of using the vanquished than by eating them; and they prefer to increase through them the number of their subjects, and so the number of instruments at their command for still more widely spread war.

The depravity of human nature shows itself without disguise in the unrestrained relations of nations to each other, while in the law-governed civil state much of this is hidden by the check of government. This being so, it is astonishing that the word “right” has not yet been entirely banished from the politics of war as pedantic, and that no state has yet ventured publicly to advocate this point of view. For Hugo Grotius,

Pufendorf, Vattel, and others — Job's comforters, all of them — are always quoted in good faith to justify an attack, although their codes, whether couched in philosophical or diplomatic terms, have not — nor can have — the slightest legal force, because states, as such, are under no common external authority; and there is no instance of a state having ever been moved by argument to desist from its purpose, even when this was backed up by the testimony of such great men. This homage which every state renders — in words at least — to the idea of right, proves that, although it may be slumbering, there is, notwithstanding, to be found in a man still higher moral capacity, by the aid of which he will in time gain the mastery over the evil principle in his nature, the existence of which he is unable to deny. And he hopes the same of others; for otherwise the word "right" would never be uttered by states which wish to wage war, unless to deride it, like the Gallic Prince who declared: "The privilege which nature gives the strong is that the weak must obey them."

The method by which states prosecute their rights can never be by process of law — as it is where there is an external tribunal — but only by war. Through this means, however, and its favorable issue, victory, the question of right is never decided. A treaty of peace makes, it may be, an end to the war of the moment, but not to the conditions of war, which at any time may afford a new pretext for open hostilities; and this we cannot exactly condemn as unjust, because under these conditions everyone is his own judge. Notwithstanding, not quite the same rule applies to states according to the law of nations that holds good of individuals in a lawless condition according to the law of nature, namely, "that they ought to advance out of this condition." This is so, because, as states, they have already within themselves a legal constitution, and have therefore advanced beyond the stage at which others, in accordance with their ideas of right, can force them to come under a wider legal constitution. Meanwhile, however, reason, from her throne of supreme law-giving moral power, absolutely condemns war as a morally lawful proceeding, and makes a state of peace, on the other hand, an immediate duty. Without a compact between the nations, however, this state of peace cannot be established or assured. Hence there must be an alliance of a particular kind, which we may call a covenant of peace (*fœdus pacificum*), which would differ from a treaty of peace (*pactum pacis*) in this respect, that the latter merely puts an end to one war, while the former would seek to put an end to war forever. This alliance does not aim at the gain of any power whatsoever of the state, but merely at the preservation and security of the freedom of the state for itself, and of the other allied states at the same time. The latter do not, however, require, for this reason, to submit themselves like individuals in the state of nature to public laws and coercion. The practicability, or objective

reality, of this idea of federation which is to extend gradually over all states and so lead to perpetual peace, can be shown. For, if Fortune ordains that powerful and enlightened people should form a republic — which by its very nature is inclined to perpetual peace — this would serve as a centre of federal union for other states wishing to join, and thus secure conditions of freedom among the states in accordance with the idea of the law of nations. Gradually, through different unions of this kind, the federation would extend further and further.

It is quite comprehensive that a people should say: "There shall be no war among us, for we shall form ourselves into a state, that is to say, constitute for ourselves a supreme legislative, administrative, and judicial power which will settle our disputes peaceably." But if this state says: "There shall be no war between me and other states, although I recognize no supreme law-giving power which will secure me my rights and whose rights I will guaranty," then it is not at all clear upon what grounds I could base my confidence in my right, unless it were the substitute for that compact on which civil society is based — namely, free federation, which reason must necessarily connect with the idea of the law of nations, if indeed any meaning is to be left in that concept at all.

There is no intelligible meaning in the idea of the law of nations as giving a right to make war; for that must be a right to decide what is just, not in accordance with universal, external laws limiting the freedom of each individual, but by means of one-sided maxims applied by force. We must then understand by this, that men of such ways of thinking are quite justly served when they destroy one another, and thus find perpetual peace in the wide grave which covers all the abominations of acts of violence as well as the authors of such deeds. For states, in their relation to one another, there can be, according to reason, no other way of advancing from that lawless condition which unceasing war implies, than by giving up their savage lawless freedom, just as individual men have done, and yielding to the coercion of public laws. Thus they can form a state of nations (*civitas gentium*), one, too, which will be ever increasing and would finally embrace all the people of the earth. States, however, in accordance with their understanding of the law of nations, by no means desire this, and therefore reject *in hypothesis* what is correct *in thesi*. Hence, instead of the positive idea of a world republic, if all is not to be lost, only the negative substitute for it, a federation averting war, maintaining its ground, and ever extending over the world, may stop the current of this tendency to war and shrinking from the control of law. But even then there will be a constant danger that this propensity may break out. "*Furor impius intus — fremit horridus ore cruento.*" (Virgil.)

3. *The rights of men, as citizens of the world, shall be limited to the conditions of universal hospitality.*

We are speaking here, as in the previous articles, not of philanthropy,

but of right; and in this sphere hospitality signifies the claim of a stranger entering foreign territory to be treated by its owner without hostility. The latter may send him away again, if this can be done without causing his death; but, so long as he conducts himself peaceably, he must not be treated as an enemy. It is not a right to be treated as a guest to which the stranger can lay claim — a special friendly compact on his behalf would be required to make him for a given time an actual inmate — but he has a right of visitation. This right to present themselves to society belongs to all mankind in virtue of our common right of possession on the surface of the earth, on which, as it is a globe, we cannot be infinitely scattered, and must in the end reconcile ourselves to existence side by side. At the same time, originally no one individual had more right than another to live in any one particular spot. Uninhabitable portions of the surface, ocean and desert, split up the human community, but in such a way that ships and camels — “the ships of the desert” — make it possible for men to come into touch with one another across these unappropriated regions, and to take advantage of our common claim to the face of the earth, with a view to a possible intercommunication. The inhospitality of the inhabitants of certain seacoasts — as, for example, the coast of Barbary — in plundering ships in neighboring seas or making slaves of shipwrecked mariners; or the behavior of the Arab Bedouins in the deserts, who think that proximity to nomadic tribes constitutes a right to rob, is thus contrary to the law of nature. This right to hospitality, however — that is to say, the privilege of strangers arriving on foreign soil — does not amount to more than what is implied in a permission to make an attempt at intercourse with the original inhabitants. In this way far-distant territories may enter into peaceful relations with one another. These relations may at last come under the public control of law, and thus the human race may be brought nearer the realization of a cosmopolitan constitution.

Let us look now, for the sake of comparison, at the inhospitable behavior of the civilized nations, especially the commercial states of our continent. The injustice which they exhibit on visiting foreign lands and races — this being equivalent in their eyes to conquest — is such as to fill us with horror. America, the negro countries, the Spice Islands, the Cape, etc., were, on being discovered, looked upon as countries which belonged to nobody; for the native inhabitants were reckoned as nothing. In Hindustan, under the pretext of intending to establish merely commercial dépôts, the Europeans introduced foreign troops; and, as a result, the different states of Hindustan were stirred up to far-spreading wars. Oppression of the natives followed, famine, insurrection, perfidy, and all the rest of the litany of evils which can afflict mankind.

China and Japan (Nippon), which had made an attempt at receiving guests of this kind, have now taken a prudent step. Only to a single

European people, the Dutch, has China given the right of access to her shores (but not of entrance into the country), while Japan has granted both these concessions; but at the same time they exclude the Dutch who enter, as if they were prisoners, from social intercourse with the inhabitants. The worst, or from the standpoint of the ethical judgment the best, of all this is that no satisfaction is derived from all this violence; that all these trading companies stand on the verge of ruin; that the Sugar Islands, that seat of the most horrible and deliberate slavery, yield no real profit, but only have their use indirectly and for no very praiseworthy object — namely, that of furnishing men to be trained as sailors for the men-of-war, and thereby contributing to the carrying on of war in Europe. And this has been done by nations which make a great ado about their piety, and, while they are quite ready to commit injustice, would like, in their orthodoxy, to be considered among the elect.

The intercourse, more or less close, which has been everywhere steadily increasing between the nations of the earth, has now extended so enormously that a violation of right in one part of the world is felt all over it. Hence the idea of a cosmopolitan right is no fantastical, high-flown notion of right, but a complement of the unwritten code of law — constitutional as well as international law — necessary for the public rights of mankind in general, and thus for the realization of perpetual peace. For only by endeavoring to fulfil the conditions laid down by this cosmopolitan law can we flatter ourselves that we are gradually approaching that ideal.

III

THE HOLY ALLIANCE (1815)

IN THE NAME OF THE MOST HOLY AND INDIVISIBLE TRINITY.

Holy Alliance of Sovereigns of Austria, Prussia, and Russia.

Their Majesties the Emperor of Austria, the King of Prussia, and the Emperor of Russia, having, in consequence of the great events which have marked the course of the three last years in Europe, and especially of the blessings which it has pleased Divine Providence to shower down upon those States which place their confidence and their hope on it alone, acquired the intimate conviction of the necessity of settling the steps to be observed by the Powers, in their reciprocal relations, upon the sublime truths which the Holy religion of our Saviour teaches: —

Government and Political Relations.

They solemnly declare that the present Act has no other object than to publish, in the face of the whole world, their fixed resolution, both in

the administration of their respective States, and in their political relations with every other Government, to take for their sole guide the precepts of that Holy Religion, the precepts of Justice, Christian Charity, and Peace, which, far from being applicable only to private concerns, must have an immediate influence on the councils of Princes, and guide all their steps, as being the only means of consolidating human institutions and remedying their imperfections. In consequence, their Majesties have agreed on the following Articles:—

Principles of the Christian Religion.

ART. I. Conformably to the words of the Holy Scriptures, which command all men to consider each other as brethren, the Three contracting Monarchs will remain united by the bonds of a true and indissoluble fraternity, and considering each other as fellow countrymen, they will, on all occasions and in all places, lend each other aid and assistance; and, regarding themselves toward their subjects and armies as fathers of families, they will lead them, in the same spirit of fraternity with which they are animated, to protect Religion, Peace, and Justice.

Fraternity and Affection.

ART. II. In consequence, the sole principle of force, whether between the said Governments or between their Subjects, shall be that of doing each other reciprocal service, and of testifying by unalterable good will the mutual affection with which they ought to be animated, to consider themselves all as members of one and the same Christian nation; the three allied Princes looking on themselves as merely delegated by Providence to govern three branches of the One family, namely, Austria, Prussia, and Russia, thus confessing that the Christian world, of which they and their people form a part, has in reality no other Sovereign than Him to whom alone power really belongs, because in Him alone are found all the treasures of love, science, and infinite wisdom, that is to say, God, our Divine Saviour, the Word of the Most High, the Word of life. Their Majesties consequently recommend to their people, with the most tender solicitude, as the sole means of enjoying that Peace which arises from a good conscience, and which alone is durable, to strengthen themselves every day more and more in the principles and exercise of the duties which the Divine Saviour has taught to mankind.

Accession of Foreign Powers.

ART. III. All the Powers who shall choose solemnly to avow the sacred principles which have dictated the present Act, and shall acknowledge how important it is for the happiness of nations, too long agitated, that these truths should henceforth exercise over the destinies of man-

kind all the influence which belongs to them, will be received with equal ardour and affection into this Holy Alliance.

Done in triplicate, and signed at Paris, the year of Grace 1815, 14/26 September.

(L. S.) FRANCIS.

(L. S.) FREDERICK WILLIAM.

(L. S.) ALEXANDER.

—HERTSLET, *The Map of Europe by Treaty*, vol. I, pp. 317-319.

IV

THE MONROE DOCTRINE

PRESIDENT MONROE'S ANNUAL MESSAGE, DECEMBER 2, 1823

At the proposal of the Russian Imperial Government, made through the minister of the Emperor residing here, a full power and instructions have been transmitted to the minister of the United States at St. Petersburg, to arrange by amicable negotiation the respective rights and interests of the two nations on the northwest coast of this continent. A similar proposal has been made by his Imperial Majesty to the Government of Great Britain, which has likewise been acceded to. The Government of the United States has been desirous by this friendly proceeding of manifesting the great value which they have invariably attached to the friendship of the Emperor and their solicitude to cultivate the best understanding with his Government. In the discussion to which this interest has given rise and in the arrangements by which they may terminate the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers. (Paragraph 7.)

It was stated at the commencement of the last session that a great effort was then making in Spain and Portugal to improve the condition of the people of those countries, and that it appeared to be conducted with extraordinary moderation. It need scarcely be remarked that the result has been so far very different from what was then anticipated. Of events in that quarter of the globe, with which we have so much intercourse and from which we derive our origin, we have always been anxious and interested spectators. The citizens of the United States cherish sentiments the most friendly in favor of the liberty and happiness of their fellow-men on that side of the Atlantic. In the wars of the European powers in matters relating to themselves we have never taken any part, nor does it comport with our policy so to do. It is only when

our rights are invaded or seriously menaced that we resent injuries or make preparation for our defense. With the movements in this hemisphere we are, of necessity, more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective Governments; and to the defense of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered and shall not interfere. But with the Governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States. In the war between these new Governments and Spain we declared our neutrality at the time of their recognition, and to this we have adhered, and shall continue to adhere, provided no change shall occur which, in the judgment of the competent authorities of this Government, shall make a corresponding change on the part of the United States indispensable to their security. (Paragraph 48.)

The late events in Spain and Portugal show that Europe is still unsettled. Of this important fact no stronger proof can be adduced than that the allied powers should have thought it proper, on any principle satisfactory to themselves, to have interposed by force in the internal concerns of Spain. To what extent such interposition may be carried, on the same principle, is a question in which all independent powers whose Governments differ from theirs are interested, even those most remote, and surely none more so than the United States. Our policy in regard to Europe, which was adopted at an early stage of the wars which have so long agitated that quarter of the globe, nevertheless remains the same, which is, not to interfere in the internal concerns of any of its powers; to consider the Government *de facto* as the legitimate Government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm, and manly policy, meeting in all instances the just claims of every power, submitting to injuries from none. But in regard to these continents circumstances are eminently and conspicuously different. It is impossible that the allied powers should extend

their political system to any portion of either continent without endangering our peace and happiness; nor can any one believe that our Southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition in any form with indifference. If we look to the comparative strength and resources of Spain and those new Governments, and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States to leave the parties to themselves, in the hope that other powers will pursue the same course. —Richardson, *Messages and Papers of the Presidents*, pp. 778, 786-788.

V

THE HAGUE CONVENTIONS OF 1899 AND 1907

PROVISIONS FOR A PERMANENT COURT OF ARBITRATION

1899

1907

*Title IV.—On International Arbitration**Part IV.—International Arbitration*

CHAPTER I.—On the System of Arbitration

CHAPTER I.—The System of Arbitration

*Article 15**Article 37*

International arbitration has for its object the settlement of differences between States by judges of their own choice, and on the basis of respect for law.

International arbitration has for its object the settlement of disputes between States by judges of their own choice and on the basis of respect for law.

Recourse to arbitration implies an engagement to submit in good faith to the award.

*Article 16**Article 38*

In questions of a legal nature, and especially in the interpretation or application of international conventions, arbitration is recognized by the signatory Powers as the most effective, and at the same time the most equitable, means of settling disputes which diplomacy has failed to settle.

In questions of a legal nature, and especially in the interpretation or application of international conventions, arbitration is recognized by the contracting Powers as the most effective, and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle.

1899

Article 17

The arbitration convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

Article 18

The arbitration convention implies the engagement to submit loyally to the award.

Article 19

Independently of general or private treaties expressly stipulating recourse to arbitration as obligatory on the signatory Powers, these Powers reserve to themselves the right of concluding, either before the ratification of the present Act or later, new agreements, general or private, with a view to extending obligatory arbitration to all cases which they may consider it possible to submit to it.

CHAPTER II.—On the Permanent Court of Arbitration

Article 20

With the object of facilitating an immediate recourse to arbitra-

1907

Article 39

Consequently, it would be desirable that, in disputes about the above-mentioned questions, the contracting Powers should, if the case arose, have recourse to arbitration, in so far as circumstances permit.

The arbitration convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

Article 40

Independently of general or private treaties expressly stipulating recourse to arbitration as obligatory on the contracting Powers, the said Powers reserve to themselves the right of concluding new agreements, general or particular, with a view to extending compulsory arbitration to all cases which they may consider it possible to submit to it.

CHAPTER II.—The Permanent Court of Arbitration

Article 41

With the object of facilitating an immediate recourse to arbitra-

1899

ting for international differences, which it has not been possible to settle by diplomacy, the signatory Powers undertake to organize a Permanent Court of Arbitration, accessible at all times and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present Convention.

Article 21

The Permanent Court shall be competent for all arbitration cases, unless the parties agree to institute a special tribunal.

1899

CHAPTER III.—On Arbitral Procedure

Article 30

With a view to encourage the development of arbitration, the signatory Powers have agreed on the following rules which shall be applicable to arbitral procedure, unless other rules have been agreed on by the parties.

Article 31

The Powers who have recourse to arbitration sign a special act (compromis), in which the subject of the difference is clearly defined, as well as the extent of the arbitrators' powers. This act implies the undertaking of the parties to submit loyally to the award.

1907

tion for international differences, which it has not been possible to settle by diplomacy, the contracting Powers undertake to maintain the Permanent Court of Arbitration, as established by the First Peace Conference, accessible at all times, and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present Convention.

Article 42

The Permanent Court is competent for all arbitration cases, unless the parties agree to institute a special tribunal.

1907

CHAPTER III.—Arbitration Procedure

Article 51

With a view to encouraging the development of arbitration, the contracting Powers have agreed on the following rules, which are applicable to arbitration procedure, unless other rules have been agreed on by the parties.

Article 52

The Powers which have recourse to arbitration sign a compromis, in which the subject of the dispute is clearly defined, the time allowed for appointing arbitrators, the form, order, and time in which the communication referred to in Article 63 must be made, and the amount of the sum which each party must deposit in advance to defray the expenses.

1899

1907

The compromis likewise defines, if there is occasion, the manner of appointing arbitrators, any special powers which may eventually belong to the tribunal, where it shall meet, the language it shall use, and the languages the employment of which shall be authorized before it, and generally speaking, all the conditions on which the parties are agreed.

Article 53

The Permanent Court, is competent to settle the compromis, if the parties are agreed to have recourse to it for the purpose.

It is similarly competent, even if the request is only made by one of the parties, when all attempts to reach an understanding through the diplomatic channel have failed, in the case of —

1. A dispute covered by a general treaty of arbitration concluded or renewed after the present Convention has come into force, and providing for a compromis in all disputes and not either explicitly or implicitly excluding the settlement of the compromis from the competence of the Court. Recourse cannot, however, be had to the Court if the other party declares that in its opinion the dispute does not belong to the category of disputes which can be submitted to compulsory arbitration, unless the treaty of arbitration confers upon the arbitration tribunal the power of deciding this preliminary question.

1899

Article 54

The award, duly pronounced and notified to the agents of the parties at variance, puts an end to the dispute definitively and without appeal.

Article 56

The award is only binding on the parties who concluded the compromis.

When there is a question of interpreting a Convention to which Powers other than those concerned in the dispute are parties, the latter notify to the former the compromis they have concluded. Each of these Powers has the right to intervene in the case. If one or more of them avail themselves of this right, the interpretation contained in the award is equally binding on them.

1907

2. A dispute arising from contract debts claimed from one Power by another Power as due to its nationals, and for the settlement of which the offer of arbitration has been accepted. This arrangement is not applicable if acceptance is subject to the condition that the compromis should be settled in some other way.

Article 81

The award, duly pronounced and notified to the agents of the parties, settles the dispute definitively and without appeal.

Article 82

Any dispute arising between the parties as to the interpretation and execution of the award shall, in the absence of an agreement to the contrary, be submitted to the tribunal which pronounced it.

Article 84

The award is not binding except on the parties in dispute.

When it concerns the interpretation of a Convention to which Powers other than those in dispute are parties, they shall inform all the signatory Powers in good time. Each of these Powers is entitled to intervene in the case. If one or more avail themselves of this right, the interpretation contained in the award is equally binding on them.

AMERICAN RESERVATIONS AT THE HAGUE CONVENTIONS

I

UNDER reservation of the declaration made at the plenary sitting of the Conference on the 25th of July, 1899.

"The delegation of the United States of America, on signing the Convention for the pacific settlement of international disputes, as proposed by the International Peace Conference, makes the following declaration: —

Nothing contained in this Convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions or policy or internal administration of any foreign State; nor shall anything contained in the said Convention be construed to imply a relinquishment by the United States of America of its traditional attitude toward purely American questions."

II

Under reservation of the declaration made in the plenary session of the Conference held on October 16, 1907.

"The delegation of the United States renews the reservation made in 1899 on the subject of Article 48 of the Convention for the pacific settlement of international disputes in the form of the following declaration: —

Nothing contained in this Convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign State; nor shall anything contained in the said Convention be construed to imply a relinquishment by the United States of America of its traditional attitude toward purely American questions."

III

The act of ratification contains the following reservation: —

"That the United States approves this Convention with the understanding that recourse to the Permanent Court for the settlement of differences can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute; and the United States now exercises the option contained in Article 53 of said Convention, to exclude the formulation of the *compromis* by the Permanent Court, and hereby excludes from the competence of the Permanent Court the power to frame the *compromis* required by general or special treaties of arbitration concluded or hereafter to be concluded by the United States, and further expressly de-

clares that the *compromis* required by any treaty of arbitration to which the United States may be a party shall be settled only by agreement between the contracting parties unless such treaty shall expressly provide otherwise."—Scott, *The Hague Convention and Declarations of 1899 and 1907*, pp. 87, 88.

VI

COVENANT OF THE LEAGUE OF NATIONS

[*As Adopted at the Plenary Session of the Peace Conference at Paris, April 28, 1919*]

In order to promote international coöperation and to achieve international peace and security by the acceptance of obligations not to resort to war, by the prescription of open, just and honorable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among governments, and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another, the High Contracting Parties agree to this Covenant of the League of Nations.

ARTICLE I

The original Members of the League of Nations shall be those of the Signatories which are named in the Annex to this Covenant and also such of those other States named in the Annex as shall accede without reservation to this Covenant. Such accession shall be effected by a Declaration deposited with the Secretariat within two months of the coming into force of the Covenant. Notice thereof shall be sent to all other Members of the League.

Any fully self-governing State, Dominion, or Colony not named in the Annex may become a Member of the League if its admission is agreed by two thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military and naval forces and armaments.

Any Member of the League may, after two years' notice of its intention so to do, withdraw from the League, provided that all its international obligations and all its obligations under this Covenant shall have been fulfilled at the time of its withdrawal.

ARTICLE II

The action of the League under this Covenant shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat,

ARTICLE III

The Assembly shall consist of Representatives of the Members of the League.

The Assembly shall meet at stated intervals and from time to time as occasion may require at the Seat of the League, or at such other place as may be decided upon.

The Assembly may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

At meetings of the Assembly each Member of the League shall have one vote, and may have not more than three Representatives.

ARTICLE IV

The Council shall consist of Representatives of the United States of America, of the British Empire, of France, of Italy, and of Japan, together with Representatives of four other Members of the League. These four Members of the League shall be selected by the Assembly from time to time in its discretion. Until the appointment of the Representatives of the four Members of the League first selected by the Assembly, Representatives of —— shall be Members of the Council.

With the approval of the majority of the Assembly, the Council may name additional Members of the League whose Representatives shall always be Members of the Council; the Council with like approval may increase the number of Members of the League to be selected by the Assembly for representation on the Council.

The Council shall meet from time to time, as occasion may require, and at least once a year, at the Seat of the League, or at such other place as may be decided upon.

The Council may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

Any Member of the League not represented on the Council shall be invited to send a Representative to sit as a member of any meeting of the Council during the consideration of matters specially affecting the interests of that Member of the League.

At meetings of the Council, each Member of the League represented on the Council shall have one vote, and may have not more than one Representative.

ARTICLE V

Except where otherwise expressly provided in this Covenant, or by the terms of this treaty, decisions at any meeting of the Assembly or of the Council shall require the agreement of all the Members of the League represented at the meeting.

All matters of procedure at meetings of the Assembly or of the Coun-

cil, including the appointment of Committees to investigate particular matters, shall be regulated by the Assembly or by the Council and may be decided by a majority of the Members of the League represented at the meeting.

The first meeting of the Assembly and the first meeting of the Council shall be summoned by the President of the United States of America.

ARTICLE VI

The permanent Secretariat shall be established at the Seat of the League. The Secretariat shall comprise a Secretary General and such secretaries and staff as may be required.

The first Secretary General shall be the person named in the Annex; thereafter the Secretary General shall be appointed by the Council with the approval of the majority of the Assembly.

The secretaries and the staff of the Secretariat shall be appointed by the Secretary General with the approval of the Council.

The Secretary General shall act in that capacity at all meetings of the Assembly and of the Council.

The expenses of the Secretariat shall be borne by the members of the League in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union.

ARTICLE VII

The Seat of the League is established at Geneva.

The Council may at any time decide that the Seat of the League shall be established elsewhere.

All positions under or in connection with the League, including the Secretariat, shall be open equally to men and women.

Representatives of the Members of the League and officials of the League when engaged on the business of the League shall enjoy diplomatic privileges and immunities.

The buildings and other property occupied by the League or its officials or by Representatives attending its meetings shall be inviolable.

ARTICLE VIII

The Members of the League recognize that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.

The Council, taking account of the geographical situation and circumstances of each state, shall formulate plans for such reduction for the consideration and action of the several governments.

Such plans shall be subject to reconsideration and revision at least every ten years.

After these plans shall have been adopted by the several governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.

The Members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those Members of the League which are not able to manufacture the munitions and implements of war necessary for their safety.

The Members of the League undertake to interchange full and frank information as to the scale of their armaments, their military and naval programmes and the condition of such of their industries as are adaptable to warlike purposes.

ARTICLE IX

A permanent Commission shall be constituted to advise the Council on the execution of the provisions of Articles I and VIII and on military and naval questions generally.

ARTICLE X

The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression the Council shall advise upon the means by which this obligation shall be fulfilled.

ARTICLE XI

Any war or threat of war, whether immediately affecting any of the Members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise the Secretary General shall, on the request of any Member of the League forthwith summon a meeting of the Council.

It is also declared to be the friendly [fundamental?] right of each Member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends.

ARTICLE XII

The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no

case to resort to war until three months after the award by the arbitrators or the report by the Council.

In any case under this article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

ARTICLE XIII

The Members of the League agree that whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration.

Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration.

For the consideration of any such dispute the court of arbitration to which the case is referred shall be the court agreed on by the parties to the dispute or stipulated in any convention existing between them.

The Members of the League agree that they will carry out in full good faith any award that may be rendered and that they will not resort to war against a Member of the League which complies therewith. In the event of any failure to carry out such an award, the Council shall propose what steps should be taken to give effect thereto.

ARTICLE XIV

The Council shall formulate and submit to the Members of the League for adoption plans for the establishment of a Permanent Court of International Justice. The Court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The Court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

ARTICLE XV

If there should arise between Members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration as above, the Members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary General, who will make all necessary arrangements for a full investigation and consideration thereof.

For this purpose the parties to the dispute will communicate to the Secretary General, as promptly as possible, statements of their case with

all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

The Council shall endeavor to effect a settlement of the dispute, and if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute and the terms of settlement thereof as the Council may deem appropriate.

If the dispute is not thus settled, the Council either unanimously or by a majority vote shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

Any Member of the League represented on the Council may make public a statement of the facts of the dispute and its conclusions regarding the same.

If a report by the Council is unanimously agreed to by the members thereof other than the Representatives of one or more of the parties to the dispute, the Members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the Representatives of one or more of the parties to the dispute, the Members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement.

The Council may in any case under this Article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the dispute, provided that such request be made within fourteen days after the submission of the dispute to the Council.

In any case referred to the Assembly all the provisions of this Article and of Article XII relating to the action and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly if concurred in by the Representatives of those Members of the League represented on the Council and of a majority of the other Members of the League, exclusive in each case of the Representatives of the parties to the dispute, shall have the same force as a report by the Council concurred in by all the Members thereof other than by the Representatives of one or more of the parties to the dispute.

ARTICLE XVI

Should any Member of the League resort to war in disregard of its covenants under Articles XII, XIII, or XV, it shall *ipso facto* be deemed

to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial, or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a Member of the League or not.

It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military or naval forces the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State, and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are coöperating to protect the covenants of the League.

Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

ARTICLE XVII

In the event of a dispute between a Member of the League and a State which is not a Member of the League, or between States not Members of the League, the State or States not Members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles XII to XVI inclusive shall be applied with such modifications as may be deemed necessary by the Council.

Upon such invitation being given the Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

If a State so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute, and shall resort to war against a Member of the League, the provisions of Article XVI shall be applicable as against the State taking such action.

If both parties to the dispute when so invited refuse to accept the obligations of membership in the League for the purposes of such dis-

pute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

ARTICLE XVIII

Every treaty or international engagement entered into hereafter by any Member of the League, shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding until so registered.

ARTICLE XIX

The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.

ARTICLE XX

The Members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings *inter se* which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof.

In case any Member of the League shall, before becoming a Member of the League, have undertaken any obligations inconsistent with the terms of this Covenant, it shall be the duty of such Member to take immediate steps to procure its release from such obligations.

ARTICLE XXI

Nothing in this Covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration or regional understandings like the Monroe Doctrine for securing the maintenance of peace.

ARTICLE XXII

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization, and that securities for the performance of this trust should be embodied in this Covenant.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who

by reason of their resources, their experience or their geographical position, can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandataries on behalf of the League.

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatary until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatary.

Other peoples, especially those of Central Africa, are at such a stage that the Mandatary must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience or religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

There are territories, such as Southwest Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centers of civilization, or their geographical contiguity to the territory of the Mandatary, and other circumstances, can be best administered under the laws of the Mandatary as integral portions of its territory, subject to the safeguards above-mentioned in the interests of the indigenous population.

In every case of mandate, the Mandatary shall render to the Council an annual report in reference to the territory committed to its charge.

The degree of authority, control, or administration to be exercised by the Mandatary shall if not previously agreed upon by the Members of the League be explicitly defined in each case by the Council.

A permanent Commission shall be constituted to receive and examine the annual reports of the Mandataries and to advise the Council on all matters relating to the observance of the mandates.

ARTICLE XXIII

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League (a) will endeavor to secure and maintain fair and humane conditions of labor for men, women and children both in their own coun-

tries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations; (b) will undertake to secure just treatment of the native inhabitants of territories under their control; (c) will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs; (d) will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest; (e) will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League. In this connection, the special necessities of the regions devastated during the war of 1914-1918 shall be borne in mind; (f) will endeavor to take steps in matters of international concern for the prevention and control of disease.

ARTICLE XXIV

There shall be placed under the direction of the League all international bureaus already established by general treaties if the parties to such treaties consent. All such international bureaus and all commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the League.

In all matters of international interest which are regulated by general conventions but which are not placed under the control of international bureaus or commissions, the Secretariat of the League shall, subject to the consent of the Council and if desired by the parties, collect and distribute all relevant information and shall render any other assistance which may be necessary or desirable.

The Council may include as part of the expenses of the Secretariat the expenses of any bureau or commission which is placed under the direction of the League.

ARTICLE XXV

The Members of the League agree to encourage and promote the establishment and coöperation of duly authorized voluntary national Red Cross organizations having as purposes the improvement of health, prevention of disease and the mitigation of suffering throughout the world.

ARTICLE XXVI

Amendments to this Covenant will take effect when ratified by the Members of the League whose Representatives compose the Council and by a majority of the Members of the League whose Representatives compose the Assembly.

No such amendment shall bind any Member of the League which signifies its dissent therefrom, but in that case it shall cease to be a Member of the League.

ANNEX TO THE COVENANT

1. ORIGINAL MEMBERS OF THE LEAGUE OF NATIONS

SIGNATORIES OF THE TREATY OF PEACE

United States of America	Cuba	Liberia
Belgium	Czecho-Slovakia	Nicaragua
Bolivia	Ecuador	Panama
Brazil	France	Peru
British Empire	Greece	Poland
Canada	Guatemala	Portugal
Australia	Haiti	Roumania
South Africa	Hedjaz	Serbia
New Zealand	Honduras	Siam
India	Italy	Uruguay
China	Japan	

STATES INVITED TO ACCEDE TO THE COVENANT

Argentine Republic	Norway	Sweden
Chile	Paraguay	Switzerland
Colombia	Persia	Venezuela
Denmark	Salvador	
Netherlands	Spain	

2. FIRST SECRETARY-GENERAL OF THE LEAGUE OF NATIONS

BIBLIOGRAPHICAL NOTES

BIBLIOGRAPHICAL NOTES

This appendix was prepared by Professor Lindsay Rogers, with the assistance, in some cases, of notes furnished by the collaborators. No attempt has been made to approximate an exhaustive bibliography, but the aim has simply been to suggest sufficient reading to make possible a thorough mastery of the subjects discussed in this book, and to indicate topics that will bear further investigation. The space given the notes for particular chapters must not be interpreted as indicating the relative importance of the problems discussed. Except when the material was of particular value, references have not been included to articles in periodicals. These can be readily traced through the "Readers' Guide to Periodical Literature." In the case of volumes readily accessible or still in print, the name of the publisher is given when the title is first mentioned. Subjects for further study in chapters dealing with concrete problems (e.g., Chapters VIII and XII) are the different areas or waterways or international functions which are discussed. The bibliographical notes indicate these subjects and make further orientation unnecessary.

LISTS of books on the League of Nations and its problems are already available, as follows: Hicks, "International Organization: An Annotated Reading List," *International Conciliation*, January, 1919; Phelps, *Selected Articles on a League of Nations* (H. W. Wilson Company); Goldsmith, *A League to Enforce Peace* (Macmillan); Rogers, "The War Aims of the United States: A Study Outline," *International Polity Club Bulletin*, April, 1917, and "The Problems of Reconstruction: International and National," *International Conciliation*, January, 1919. The following notes are selected for their value in connection with the chapters of the present volume.

GENERAL

For many years lectures, essays, and illustrative materials of various sorts have been published in profusion and circulated *gratis* by the American Association for International Conciliation (407 West 117th Street, New York City) and the World Peace Foundation (40 Mt. Vernon Street, Boston, Mass.). The student of the subject can hardly do better than make consistent use of the publications of these two organizations, and of others that have been formed more recently to popularize the idea of a league of nations. Certain periodicals, like *The New Europe*, *War*

and *Peace* (now *The International Review*), *The Round Table*, *The New Republic*, and *The League of Nations Journal and Monthly Report* (organ of the English society), will also be found of great value.

Various plans for a league of nations will be found in the following: Woolf, *The Framework of a Lasting Peace* (Allen & Unwin); Hyde, *The International Solution* (Allen & Unwin); Bryce, *Proposals for the Prevention of Future Wars* (Allen & Unwin); Hobson, *Towards International Government* (Macmillan); Minor, *A Republic of Nations* (Oxford); Erzberger, *The League of Nations* (Holt); Smuts, "The League of Nations: a Practical Suggestion," *The Nation* (N.Y.), and Kallen, *A League of Nations* (Marshall Jones).

The bibliographies referred to above give lists of the books which deal generally with the problems of a league of nations; but the following may be selected as the more important: Brailsford, *A League of Nations* (Macmillan), and *A Covenant of Peace* (Huebsch); Paish, *A Permanent League of Nations* (Fisher Unwin); Oppenheim, *A League of Nations, and Its Problems* (Longmans); Hart, *The Bulwarks of Peace* (Methuen); Dickinson, *The Choice Before Us* (Dodd, Mead); Fayle, *The Fourteenth Point* (Murray); Dawson, *Problems of the Peace* (Scribner); Asquith (Introduction by), *The Idea of Public Right* (Macmillan); Dickinson (Introduction by), *Problems of the International Settlement* (Allen & Unwin); Wells, *In the Fourth Year* (Macmillan); Wells and Others, *The Idea of a League of Nations* (Atlantic Monthly Press); Lawrence, *A Society of Nations* (Oxford); Butler, *The International Mind* and *A World in Ferment* (Scribner); "Cosmos," *The Basis of a Durable Peace* (Scribner); and the Oxford Pamphlets dealing with the League and the problems it raises.

CHAPTER II

W. Evans Darby, *International Tribunals* (Dent), is an inaccurate but useful work, which gives the texts of the more important schemes for international government: the Amphictyonic Council, the Grand Design of Henry IV, and the plans of Émeric Crucé, William Penn, Abbé St.-Pierre, Leibnitz, Rousseau, Bentham, Kant, James Mill, John Stuart Mill, Bluntschli, and William Ladd. E. D. Mead has edited *The Great Design of*

Henry IV (Ginn), and an article on this proposal appeared in *The Unpopular Review*, October–December, 1918, entitled “An Earlier League to Enforce Peace.” An elaborate account of Émeric Crucé’s *Le Nouveau Cynée* has been published (Allen, Lane & Scott), and a number of the other texts given by Darby are accessible in different forms: Penn, *The Peace of Europe* (Dutton); Kant, *Eternal Peace* (Allen & Unwin, and World Peace Foundation); Ladd, *An Essay on a Congress of Nations* (Oxford).

General works discussing one or more of these plans are: Meulen, *Der Gedanke der internationalen Organization* (Nijhoff); T. A. Walker, *A History of the Law of Nations* (Cambridge); Morrow, *The Society of Free States*, chapters III and IV (Harper); H. Wheaton, *History of the Law of Nations* (Gould, Banks); Phillips, *The Confederation of Europe* (Longmans); Pollard, *The League of Nations in History* (Oxford); Marriott, *The European Commonwealth*, chapters I, II, and XV, (Oxford); Bassett, *The Lost Fruits of Waterloo* (Macmillan), and *Historical Light on the League to Enforce Peace* (World Peace Foundation, December, 1916). For political utopias in general, see Lewis, *On the Methods of Observation and Reasoning in Politics*, vol. II, pp. 284 ff. (Parker & Son), and Acton, *The History of Freedom and Other Essays*, pp. 271 ff. (Macmillan). The books by Phillips and Marriott will be of chief value in considering “The Concert of Europe.” A very important article is “The Harvest of the War,” *The Round Table*, December, 1915 (no. 21). On the Hague Conferences, Scott, *The Hague Peace Conferences of 1899 and 1907* (Johns Hopkins Press), is the best authority. This book also gives some attention to the problem of preserving peace under the American Constitution, and to the Pan-American precedents for the Hague Conferences. Scott has edited two works on *Judicial Settlement of Controversies between States of the American Union: Cases Decided in the Supreme Court of the United States* (Oxford), and *Judicial Settlement of Controversies between States of the American Union: An Essay on the Practice and Procedure of the Supreme Court of the United States* (Oxford).

Any one of the schemes for world organization mentioned above is worthy of more intensive study than is given by the necessarily brief summary of the chapter. Detailed comparisons of the schemes with each other and with the League of Nations Covenant will prove valuable assignments for class reports.

CHAPTER III

Very little indeed has been published on the subject of this chapter. There is an interesting discussion of "The International Organizations which Were Forced upon the Allied World by the War with Germany" in Morrow, *The Society of Free States*, chapter x. *A League of Nations*, vol. 1, no. 7 (World Peace Foundation) contains some material on the Supreme War Council, the Allied Maritime Transport Council, and other affiliated bodies. The most complete treatment, however, is probably by Major Waldorf Astor, "Coöperative Basis for a League of Nations," *The London Observer*. Two interesting articles have appeared in *The Round Table*, "The Unity of Civilization," September, 1918, and "The Practical Organization of Peace," March, 1919; and *The New Europe* has published several important papers on the embryo of the League of Nations. The chief of these is "The Versailles Mustard-Seed," February 28, 1918. See also, Thomas, "The League of Nations," *Atlantic Monthly*, vol. 122, p. 677; and Garvin, *The Economic Foundations of Peace*, chapters III and IV, "Coöperation during the War" (Macmillan). More material on the subject of this chapter will be available as official reports are made public.

CHAPTERS IV AND VI

See the general references given above; also Moore, "The Peace Problem," *Columbia University Quarterly*, vol. 18, p. 210, and *North American Review*, July, 1916; and *The Lodge-Lowell Debate* (World Peace Foundation).

CHAPTER V

The best discussion of the three political ideals that were brought into conflict by the war — Prussianism, the League of Nations, and Bolshevism — is to be found in Zimmern, *Nationality and Government* (McBride). For the problem of small states, see Fisher, *The Value of Small States* (Oxford Pamphlets); Bryce, *The Holy Roman Empire* (Macmillan); Marriott, *The European Commonwealth*, chapter VII; Fisher, *Federal Unions* (Oxford); Marriott, "The Problem of Federalism," *Nineteenth Century*, June, 1918; Acton, *The History of Freedom and Other Essays*, chapter IX; and Masaryk, *Small Nations in the European Crisis*

(Council for the Study of International Relations). On sovereignty and a league of nations, see Stallybrass, *A Society of States* (Dutton); Baldwin, "The Vesting of Sovereignty in a League of Nations," *Yale Law Journal*, January, 1919, and "Division of Sovereignty," *International Law Notes*, July, 1918; Pollock, "Sovereignty and the League of Nations," *Fortnightly Review*, January, 1919; Phillips, *The Confederation of Europe* (Longmans); "National Federations and World Federation," *Edinburgh Review*, July, 1917, and "The Price of the Society of Nations," *The New Europe*, December 5, 1918; Seignobos, "The Society of Nations and its Price," *The New Europe*, November 14, 1918, and Crane, *The State in International and Constitutional Law* (Johns Hopkins Press). On the Bryan arbitration treaties, see *The Commission of Inquiry: The Wilson-Bryan Peace Plan* (World Peace Foundation, November, 1913), and editorials in the *American Journal of International Law*, January and April, 1915. On Pan-American obligations, Rogers, "President Wilson's Pan-American Policy," *Contemporary Review*, April, 1917. On a new state philosophy and a league of nations, Laski, *The Problem of Sovereignty* (Yale); Angell, *The Great Illusion* (Putnam); Lindsay, "The Political Theory of Mr. Norman Angell," *Political Science Quarterly*, December, 1914; Barker, *Political Thought from Herbert Spencer to Today* (Holt); "Freedom and Unity," *The Round Table*, December, 1917; "The End of War," *The Round Table*, September, 1915; Woolf, "The State as It Ought to Be and as It Is," *International Journal of Ethics*, October, 1916; Slonimsky, "Nationalistic Ideals and International Organization," *Johns Hopkins Alumni Magazine*, January, 1919; Haldane, "Higher Nationality: A Study in Law and Ethics," *International Conciliation*, November, 1913; and McMurray, "Inter-citizenship: A Basis for World Peace," *Yale Law Journal*, January, 1918.

Subjects for essays and reports: The value of federal unions in preserving peace; limitations on the sovereignty of the United States; semi-sovereign states (Hershey, *Essentials of International Public Law* [Macmillan] and Garner, *Introduction to Political Science* [American Book Company] and authorities cited); sovereignty and compulsory arbitration; anti-state political philosophy.

CHAPTER VII

The literature dealing with the problem of armaments and sanctions is far too extensive to be described here. A convenient reference list will be found in Levermore, *Suggestions for the Study of International Relations* (World Peace Foundation, November, 1913), and a more comprehensive guide is Krehbiel, *Nationalism, War, and Society* (Macmillan). Among important discussions, the following may be mentioned: Jordan, *War and Waste* (Doubleday, Page); Jones, *Economics of War and Conquest* (King); Mahan, *Armaments and Arbitration* (Harper); Novikow, *War and Its Alleged Benefits* (Holt); Perris, *A Short History of War and Peace* (Holt); Trueblood, "The Case for the Limitation of Armaments," *American Journal of International Law*, October, 1908; A. W. Alderson, *The Causes and Cure of Armaments and War* (King), and Dickinson, *The Choice Before Us*, chapter XI. For the Rush-Bagot Treaty, under which the United States and Canada have refrained for more than a hundred years from arming against each other, see Foster, *Limitation of Armaments on the Great Lakes* (Carnegie Endowment, Division of International Law, Pamphlet No. 2). On Great Britain's record, see Murray, *The Foreign Policy of Sir Edward Grey* (Oxford). On armaments at the Hague Conferences, Scott, *The Hague Peace Conferences of 1899 and 1907*, vol. I, pp. 654-672 (Johns Hopkins Press). The connections of capitalistic interests with armament building are discussed by Perris, *The War Traders* (American Peace Society); Brailsford, *The War of Steel and Gold* (Bell); Snowden, *Dreadnoughts and Dividends* (World Peace Foundation, August, 1914); Hirst, *The Political Economy of War* (Dutton), and Newbold, *The War Trust Exposed* (National Labour Press). Concrete proposals for disarmament in certain minor countries are briefly set forth by R. L., "Disarmament Plans in Scandinavia," *The Nation* (N.Y.), April 19, 1919; and of importance also are: *La Limitation conventionnelle des Armements* (Interparliamentary Union, no. 5); Wehberg, *Armements navals and Limitation des Armements* (Interparliamentary Union, no. 3); De Martens, "La Question de Désarmement," *Revue de Droit international et de Législation comparée*, vol. XXVI, p. 573; Desjardins, "Le Désarmement," *Revue de Deux Mondes*, 1898, p. 67; papers in the

Rapports de l'Organisation Centrale pour une Paix durable, and Garvin, *The Economic Foundations of Peace*, chapter XIX.

The question of adequate sanctions for international law is discussed by A. W. Spencer, "The Organization of International Force," *American Journal of International Law*, January, 1915; Hill, "The Possible Means of Increasing the Effectiveness of International Law," *Proceedings of the American Society of International Law*, 1916; Baldwin, "Suspension from the Society of Nations," *American Law Review*, September-October, 1918, and Cromer, "Thinking Internationally," *Nineteenth Century*, July, 1916. A treatise of special interest for American readers is Wright, *The Enforcement of International Law Through Municipal Law in the United States* (University of Illinois).

The relation of the League of Nations to armaments has not yet been widely discussed in print, though it will certainly receive much attention. The following references are useful: Hobson, *Towards International Government*, chapters VI-VII; Bourne (compiler), *Towards an Enduring Peace* (American Association for International Conciliation); Hyde, *The International Solution*; Angell, *America and the New World State* (Putnam); Dickinson, *Disarmament* (Publications of the [English] League of Nations Society, no. 28); Anon., *War Obviated by an International Police* (Nijhoff); Garvin, *The Economic Foundations of Peace*, chapter XIX; and Slayden, "Disarmament," *Annals, American Academy of Political and Social Science*, vol. 72, p. 92.

Subjects that deserve further study include the effectiveness of the sanctions provided by the League Covenant, the effectiveness of the disarmament proposals, and the use of the economic boycott. On the latter point the following articles will be found of interest: "The New Economic Prospect," *The New Europe*, August 8, 1918; "Atticus," "The Economic Weapon and Imperial Unity," *The New Europe*, March 7, 1918; Zimmern, *The Economic Weapon in the War Against Germany* (Doran); "Our Answer to Germany's Eastern Triumph," *The New Europe*, May 30, 1918; Rogers, *America and the Economic Weapon*, *The Nation* (N.Y.), May 18, 1918, and Brailsford, *A League of Nations*, chapter IX. (See also the references under chapter X of the present symposium.)

CHAPTER VIII

General.—Reinsch, *Public International Unions* (Ginn); Kaeckenbeeck, *International Rivers*; Woolf, *International Government* (Brentano). For a more general survey of international administration, see Sayre, *Experiments in International Administration* (Harper). For the texts of treaties and conventions, see such collections of treaties, as Hertslet, *Map of Europe by Treaty*; Hertslet, *Commercial Treaties*; Martens, *Nouveau recueil général de traités*, and Malloy, *United States Treaties*. A number of international conventions are translated in R. L. Bridgman, *First Book of World Law* (Ginn).

Particular.—As to the European Danube Commission: Demorgny, *La question du Danube*; Maican, *La question du Danube*; Sturdza, *Recueil des documents relatifs à la liberté de navigation du Danube*. A good brief account may be found in Bonfils, *Droit Inter. Public* (7 ed.), No. 528. For the Danube treaties between 1856 and 1871, see the indexed list in Hertslet: *Commercial Treaties*, vol. xii, pp. 131, 132 of Index; Chamberlain, *Danube* (Washington, Government Printing Office, 1918).

As to the Congo River Commission: Reeves, *Johns Hopkins University Studies in Historical and Political Science* (1894), vol. xii, Papers 11 and 12; *Revue de Droit International*, vol. xxi (1889), p. 186; Kaeckenbeeck, *International Rivers*, pp. 137 ff.

As to the Albanian Commission of Control: Much information can be gained from current magazine articles, such as *Fortnightly Review*, vol. xcv (New Series) (1914), p. 469, and vol. xcvi (New Series) (1914), p. 1, and *Contemporary Review*; vol. cvi, p. 277. An interesting chapter on Albania may be found in Gibbons; *The New Map of Europe* (Century).

As to the Moroccan International Police: Deloncle, *Statut International du Maroc*; Albin, *Le Coup d'Agadir*.

As to the New Hebrides Condominium: See Reports in British Parliamentary Accounts and Papers, e.g. (1907) [Cd. 3288], vol. lvi, p. 649, and [Cd. 3525], p. 737; Politis, *Revue générale de droit international public*, vol. xiv, p. 689, and Bonfils, *Droit international public* (7 ed.), no. 344 (p. 221) note 1.

As to Samoa: Moore, *Digest of International Law*, vol. i, section 110; *U.S. Foreign Relations*, 1889, p. 353; President Cleveland's Annual Message to Congress, December 3, 1894.

As to International Sanitary Measures: Malloy, *Treaties of U.S.*, vol. II, p. 2066; Martens, *Nouveau recueil général* (3d series), vol. I, pp. 78, 169, 177, 181; *Revue générale de droit international public*, vol. XI (1904), p. 199; Loutfi, *La politique sanitaire internationale*.

As to the Suez Commission: White, *The Expansion of Egypt*; Camand, *Étude sur le régime juridique du canal de Suez*; Rossignol, *Le canal de Suez*; Charles-Roux, *L'isthme et le canal de Suez*.

As to the International Sugar Commission; Annual Reports of British delegates in *British Parliamentary Accounts and Papers*; *Fortnightly Review*, vol. LXXVII, p. 636; *Contemporary Review*, vol. LXXXIII, p. 75; *Revue générale de droit international public*, vol. XIX, p. 665; Politis, *L'Organisation de l'Union Internationale des Sucres*.

CHAPTER IX

The rise of nationality and its problems was the most important political development of the nineteenth century, and the literature bearing upon the subject of national problems and disputes leading to and growing out of the Great War embraces nearly all the political histories, general and special, dealing with the events and movements of the last century. Any bibliography of war-books will refer to the leading authorities. The manuals of C. M. Andrews, C. D. Hazen, Charles Seignobos, J. H. Robinson and C. A. Beard, C. J. H. Hayes, and J. S. Schapiro will be found of value.

The meaning of the term nationality and its allied concepts is discussed in a number of books and pamphlets: Muir, *Nationalism and Internationalism* (Constable); Ruysen, "What is a Nationality?" *International Conciliation*, March, 1917; Zimmern, *Nationality and Government*; Acton, *The History of Freedom and other Essays*, chapter IX, and Krehbiel, *Nationalism, War, and Society*. For the history of the principle, see, in addition to the foregoing, Rose, *Nationality in Modern History* (Macmillan); Morrow, *A Society of Free States*; Seton-Watson and others, *The War and Democracy* (Macmillan); Robinson, "What is National Spirit?" *Century Magazine*, November, 1916; Hayes, "The War of the Nations," *Political Science Quarterly*, December, 1914.

Problems of the small nations in their territorial and inter-

national aspects are discussed by Bryce, *Essays and Addresses in War Time* (Macmillan); Masaryk, *The Problem of Small Nations in the European Crisis*; Stoddard and Frank, *Stakes of the War* (Century); Toynbee, *Nationality and the War* (Dutton); Dominian, *The Frontiers of Language and Nationality in Europe* (Holt); Gibbons, *The Reconstruction of Poland and the Near East* (Century); Steed, *The Hapsburg Monarchy* (Constable); Seton-Watson, *Racial Problems in Hungary* (Constable), *The Rise of Nationality in the Balkans* (Constable), and *The Balkans, Italy, and the Adriatic* (Nisbet); Marriott, *The Eastern Question* (Oxford); Miller, *The Ottoman Empire* (Cambridge); Taylor, *The Future of the Southern Slavs* (Dodd, Mead); Ripley, *The Races of Europe* (Appleton), and Forbes and others, *The Balkans: A History* (Oxford). The problem of the disputed boundaries and the matter of establishing boundaries of different types is discussed by Sir Thomas Holdich in his *Political Frontiers and Boundary-Making* (Macmillan) and by "Diplomatist," *Nationality and War in the Near East* (Oxford). De Greef's important discussion of the futility and danger of purely political frontiers in his *La Structure générale des Sociétés* is not available in English, but a general summary of his position is presented by Tenney in the *Political Science Quarterly*, September, 1910, pp. 502-508. Of interest also on geographical problems are Newbegin, *The Geographical Aspects of the Balkan Problems in Their Relation to the Great European War* (Putnam), Brailsford, *Poland and a League of Nations* (Allen & Unwin), Grosvenor, "The Races of Europe," *National Geographic Magazine*, December, 1918.

Subjects for special investigation include nationality and territorial boundaries in theory and in practice; the relative importance of the following factors of political cohesion: common nationality, loyalty to a dynasty (*e.g.*, in Prussia); economic convenience (*e.g.*, Austria-Hungary), geographical unity (*e.g.*, Switzerland). A detailed review of the theories of Lord Acton or Mr. Zimmern (as outlined in the books referred to above) will be valuable. Of interest also are the references given under chapter v.

CHAPTER X

On the general subject of economic internationalism see, Brailsford, *A League of Nations*, chapter ix; Hobson, *Towards*

International Government, chapter VII; "Cosmos," *The Basis of Durable Peace*, chapter III; Garvin, *The Economic Foundations of Peace*, chapter XI; Kallen, *The League of Nations*, and Weyl, *American World Policies* (Macmillan).

For the utterances of President Wilson, see his reply to the Pope (August 27, 1917), the address to Congress of December 4, 1917, and the third of the "Fourteen Points" (January 8, 1918). For the texts of the Paris Resolutions, see Hobson, *The New Protectionism*, Appendix (Putnam); *Congressional Record*, July 10, 1916, p. 12284, and *Current History*, August, 1916, p. 928. See also Clark, "Shall There Be War after the War? The Economic Conference at Paris," *American Journal of International Law*, October, 1917, and Brailsford, "The Reichstag and Economic Peace," *Fortnightly Review*, October, 1917.

On the question whether an economic or a political motive should dominate the protectionist movement, and on the attitude which should be taken by governments toward the export of capital to backward countries, see Brailsford, *The War of Steel and Gold*, and references under chapter XI of the present volume.

Two important pamphlets are *World Trade Conditions after the War: An Analysis of the Preparations England, France, and Germany Are now Making to Extend Their Foreign Trade* (April, 1918; National Foreign Trade Council, India House, Hanover Square, New York City), and *European Economic Alliances* (September, 1916; same publisher.) The United States Tariff Commission has recently published a monograph on the reciprocity policy of the United States. Of importance also are Hornbeck, *The Most Favored Nation Clause* (University of Wisconsin Studies), and Gide, "The Commercial Policy of France after the War," *Economic Journal*, 1916, p. 44.

On the Balfour of Burleigh Report, see Reid, "The Balfour of Burleigh Report," *Contemporary Review*, July, 1918; "Trade After the War," *North American Review*, September, 1918; "Wrecking the League," *The Nation* (London), June 22, 1918; "A Stupid Proposal," *The New Statesman*, May 4, 1918.

CHAPTER XI

For the subjects dealt with in this chapter see Brailsford, *The War of Steel and Gold*, and A League of Nations; Lippmann, *The*

Stakes of Diplomacy (Holt); Hobson, *The New Protectionism, Towards International Government*, and "The Open Door" in *Towards a Lasting Settlement* (Macmillan); Kerr, "Political Relations between Advanced and Backward Peoples," in *An Introduction to the Study of International Relations* (Macmillan); Curtis, *The Problem of the Commonwealth* (Macmillan); Murphy, *The Basis of Ascendancy* (Longmans); Smuts, *War-Time Speeches* (Doran). The problem of colonies is given a very adequate treatment in Dawson, *Problems of the Peace*, and the mandatory principle is discussed in *The New Europe*, February 13, 1919, "The League and the Mandatory Principle." Of importance also is John H. Harris, "The League of Nations and the Tropics," *The New Europe*, April 3, 1919, and other articles by the same author in the English reviews during the war.

Topics that will repay further investigation include: the criteria of advanced and backward peoples; state regulation of private enterprise at home compared with state control of private citizens in commercial relations with backward peoples; the right of intervention (see authorities referred to in Hershey, *Essentials of International Public Law*); the consequences of intervention in the past, and the particular problems connected with backward countries like Morocco, Egypt, India, and China.

CHAPTER XII

On the subject of international waterways, see Engelhardt, *Fleuves Internationaux*, and *Histoire du Droit Fluvial Conventionnel*. Engelhardt was the first French representative on the Danube Commission. His work is, therefore, of particular value. He was a French diplomatic official who rose to the rank of military plenipotentiary, and is a man of the widest knowledge and experience in this field. *Fleuves Internationaux* contains a model river-navigation treaty, with an interesting historical introduction and a discussion of the principles of freedom of navigation and the regulation of international rivers. The author believes in liberty of navigation for all flags and in the control by the riparian states. *Histoire du Droit Fluvial Conventionnel* is a development of the historical introduction of the previous book. Kaeckenbeeck, *International Rivers*, is a study based chiefly on the reports of the meetings of different congresses which dealt

with international rivers. It contains a large amount of very interesting material and has very useful maps. Demorgny, *La Question du Danube*, gives a brief account of the general history of the basin of the Danube, with short descriptions of the riparian states and their governments. In Part II is a short study of the history of river navigation, introducing the legal and political history of the Danube. He especially treats of the Danube Commission and its work, and he distinguishes the interests and expressed objects of the various states in the lower Danube, with particular attention to the Roumanian point of view, quoting from Roumanian newspapers and the speeches of public men. On the Danube, see Krehbiel, "The European Commission of the Danube: an Experiment in International Administration," *Political Science Quarterly*, March, 1918, and *International Conciliation*, October, 1918.

Clapp, *The Navigable Rhine*, treats very interestingly of the development of commerce on the Rhine and of the history of Rhine shipping. Eckert, *Rheinschiffart im XIX Jahrhundert in Staats und Social-wissenschaftliche Forschungen*, issued by Gustav Schmoller, No. 18, 1900, is a very thorough and excellent historical description of the development of Rhine navigation in the nineteenth century, with a chapter on the earlier history. De Martens, *Droit International*, vol. II, gives a brief study of international transportation. Moore, *Digest of International Law*, contains, in sections 128-132 inclusive, and section 138, extracts from diplomatic documents in relation particularly to American rivers. Sayre, *Experiments in International Administration*, discusses the Postal Union and various river treaties and their bearing on organization under a League of Nations. Flügel, *Die deutschen Welthäfen Hamburg und Bremen*, is a study of the two great German ports, with a description of the means by which they attained their position. Rousiers, *Hambourg et L'Allemagne*, contains a study of the port of Hamburg and the mutual influence of the development of Germany and of Hamburg. See also, Chamberlain, *The Danube*.

CHAPTER XIII

For the subjects discussed in this chapter, see Commons and Andrews, *Principles of Labor Legislation* (Harper); "International Convention Respecting the Prohibition of Night Work for

Women in Industrial Employment," *Bulletin of the International Labor Office*, vol. I, 1906, pp. 272-275, 277; vol. VII, 1912, table following p. 503; "International Convention Respecting the Use of White (Yellow) Phosphorus in the Manufacture of Matches," *Ibid.*, pp. 275-276; vol. VII, 1912, table following p. 503; "International Trade-Union Conference in Berne, October 1 to 4, 1917," *Monthly Review of the U.S. Bureau of Labor Statistics*, vol. VI, no. 3, March, 1918, pp. 172-179; "Post-War Labor Program of the International Association for Labor Legislation," *Monthly Review of the U.S. Bureau of Labor Statistics*, vol. VII, no. 5, November, 1918, pp. 55-62; "Proposed World Labor Congress," *Ibid.*, vol. IV, no. 2, February, 1917, pp. 204-206; "Standards of Labor Legislation Suggested in Resolutions of International Labor Conference at Leeds, July, 1916," *Ibid.*, vol. IV, no. 6, June, 1917, pp. 912-915; Bauer, "International Standardization of Labor Legislation," *Bulletin of the U.S. Bureau of Labor Statistics*, no. 254; Magnusson, "Control of Labor Conditions by International Action," *Monthly Review of the U.S. Bureau of Labor Statistics*, vol. VIII, no. 4, April, 1919, pp. 1-11; Lowe, *International Aspects of the Labor Problems*.

On labor problems generally and the peace treaty, see Tead, *The People's Part in Peace* (Holt); Angell, *The British Revolution and American Democracy* (Huebsch), and Kellogg and Gleason, *British Labor and the War: Reconstructors for a World Democracy* (Boni & Liveright). The latter volume contains a great many valuable appendices, including such material as the British Labor Party's memorandum on war aims. The draft convention creating a permanent organization to regulate labor conditions was published in the London *Times* [Weekly Edition] of April 4, 1919. Of importance also is Garvin, *The Economic Foundations of Peace*, chapter XIV.

CHAPTER XIV

On the rules of international law governing warfare on sea, consult Hershey, *Essentials of International Public Law* and authorities there cited, or any other good textbook on international law.

On the freedom of the seas generally, see Grotius (edited by Magoffin), *The Freedom of the Seas* (Oxford); Moore, *Digest of International Law*, vol. II, sec. 319 (Government Printing Office);

Stockton, *Outlines of International Law*, chapter VIII (Scribner); Davidson, *The Freedom of the Seas* (Moffat, Yard); Cababé, *The Freedom of the Seas* (Murray); Fiennes and others, *The Freedom of the Seas* (Royal Society of Arts); Corbett, *The League of Nations and Freedom of the Seas* (Oxford); Andrews, *The Freedom of the Seas: Immunity of Private Property at Sea in Time of War* (Central Organization for a Durable Peace); Ramsay Muir, *Mare Liberum: The Freedom of the Seas* (Hodder & Stoughton); Piggott, *The Free Seas in War* (King); Brown, *The Freedom of the Seas* (Dutton); Corwin, "The Freedom of the Seas," *North American Review*, January, 1919, and "Freedom of the Seas: a Compromise," *The Nation* (N.Y.), March 8, 1919; Stowell, "Freedom of the Seas," *Century Magazine*, March, 1919; Aston, "The Fight for Sea Freedom," *Nineteenth Century*, August, 1918; Brown and Davenport, "Freedom of the Seas," *Unpopular Review*, July, 1918; and Leyland, "The 'Freedom of the Seas,'" *Nineteenth Century*, January, 1918.

Subjects discussed in this chapter that will bear further investigation include the immunity of private property on the high seas in time of war (the attitude and interests of the United States and other powers), and sea power as the instrument of the League of Nations. On the former problem, see "Cosmos," *The Basis of Durable Peace* (Scribner); Scott, *The Two Hague Peace Conferences*, vol. I, chapter xv; Holls, *The Peace Conference at the Hague* (Macmillan), pp. 306-321; Moore, *Digest of International Law*, sec. 1198; Barclay, *Problems of International Practice and Diplomacy*, pp. 63-70, 172-179 (Boston Book Co.); Choate, "Immunity from Capture of Unoffending Property of the Enemy upon the High Seas," *American Addresses at the Second Hague Peace Conference* (Ginn); Hirst, "The Capture and Destruction of Commerce at Sea," *International Conciliation*, November, 1910; Mahan, *Armaments and Arbitration* (Harper), and *The Interest of America in Sea Power* (Little, Brown); Graham Bower, "Private Property on the High Seas," *American Journal of International Law*, January, 1919, and the monograph of Mrs. Andrews for the Central Organization for a Durable Peace referred to above. For the pre-war readiness of the British Government to consider proposals looking toward the immunity of private property from capture, see Sir Edward Grey's remarks in the House of Commons, April 1, 1913, and May 6, 1914, and

on the Declaration of London, see Scott, "The Declaration of London of February 26, 1909," *American Journal of International Law*, April and July, 1914.

On the question how far sea power should be an instrument of a league of nations, see Angell, *The World's Highway* (Doran); Sidebotham, "The Freedom of the Seas," *Towards a Lasting Settlement* (Macmillan), and *Atlantic Monthly*, August, 1916; Brailsford, *A League of Nations*, chapter VII and VIII, and the works referred to above by "Cosmos," Mahan, Barclay, and Corbett.

CHAPTER XV

For the policy of isolation in its broad aspects and, more specifically, with reference to the position of the United States among the powers of the world, see *American State Papers* (Foreign Relations, vol. I); *Annals, American Academy of Political and Social Science*, July, 1914; Bernard, *Lectures on Diplomacy* (Macmillan); Bismarck, *Reflections and Reminiscences*, vol. II (Smith, Elder; translated by A. J. Butler); Burrows, *The History of the Foreign Policy of Great Britain* (Blackwood); Dupuis, *Le Principe d'Equilibre et le Concert Européen* (Perrin); Foster, *A Century of American Diplomacy* (Houghton, Mifflin); *Foreign Relations of the United States* (1885); Latané, *From Isolation to Leadership* (Doubleday, Page); Moore, *Digest of International Law*, vol. I, chapter 3 and vol. VI, chapter 20; Moore, *Principles of American Diplomacy* (Harper); Malloy, *Treaties of the United States* (Government Printing Office); Fenwick, *The Neutrality Laws of the United States* (Carnegie Endowment); *Proceedings, American Society of International Law*, 1914; Richardson, *Messages and Papers of the Presidents*; Seeley, *Growth of British Policy* (Cambridge); Scott, *The Armed Neutralities of 1780 and 1800* (Carnegie Endowment); Wharton, *Diplomatic Correspondence of the American Revolution*; Adams, *Works*, vols. II and III (Little, Brown), and Hume, *Philosophical Works*, vol. III, Essay 7.

CHAPTER XVI

The Monroe Doctrine in its general aspects is discussed by Coolidge, *The United States as a World Power* (Macmillan); Edgington, *The Monroe Doctrine* (Little, Brown); Hart, *The*

Monroe Doctrine: An Interpretation (Little, Brown); Hull, *The Monroe Doctrine: National or International* (Putnam); Henderson, *American Diplomatic Questions* (Macmillan); Latané, *From Isolation to Leadership*; Moore, *The Principles of American Diplomacy*; Bingham, *The Monroe Doctrine: An Obsolete Shibboleth* (Yale); Robinson and West, *The Foreign Policy of Woodrow Wilson* (Macmillan); and Wilson, *The Monroe Doctrine after the War* (World Peace Foundation), and *The Monroe Doctrine and the Program of the League to Enforce Peace* (World Peace Foundation, August, 1916). For discussions of inter-American relations apart from the particular question of the Monroe Doctrine, see Usher, *Pan-Americanism* (Century); Bigelow, *Pan-American Policy* (Scribner); Rogers, "President Wilson's Pan-American Policy," *Contemporary Review*, April, 1917. The importance of the Monroe Doctrine was stressed in the senatorial debate on the League of Nations (*Congressional Record*, February, and *Current History*, April, 1919), and there was some discussion of it in the Lowell-Lodge debate (World Peace Foundation).

Subjects for further study include the historical background of any of the extensions of the Monroe Doctrine, as enumerated in a volume like Hart's *The Monroe Doctrine* (*supra*), the consonance of President Wilson's Latin-American Policy with his insistence on self-determination in Europe (see Storey, "A Plea for Honesty," *Yale Review*, January, 1918), and the general question of regional understandings as violating, or showing distrust of, the League Covenant.

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